

**AMERICANS WITH DISABILITIES ACT AT 20—  
CELEBRATING OUR PROGRESS, AFFIRMING OUR  
COMMITMENT**

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**HEARING**  
BEFORE THE  
SUBCOMMITTEE ON THE CONSTITUTION,  
CIVIL RIGHTS, AND CIVIL LIBERTIES  
OF THE  
COMMITTEE ON THE JUDICIARY  
HOUSE OF REPRESENTATIVES  
ONE HUNDRED ELEVENTH CONGRESS  
SECOND SESSION

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JULY 22, 2010  
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**AMERICANS WITH DISABILITIES ACT AT 20—  
CELEBRATING OUR PROGRESS, AFFIRMING  
OUR COMMITMENT**

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**THURSDAY, JULY 22, 2010**

HOUSE OF REPRESENTATIVES,  
SUBCOMMITTEE ON THE CONSTITUTION,  
CIVIL RIGHTS, AND CIVIL LIBERTIES,  
COMMITTEE ON THE JUDICIARY,  
*Washington, DC.*

The Subcommittee met, pursuant to notice, at 2:30 p.m., in room 2141, Rayburn House Office Building, the Honorable Jerrold Nadler (Chairman of the Subcommittee) presiding.

Present: Representatives Nadler, Conyers, Watt, Scott, Baldwin, Cohen, Jackson Lee, Sensenbrenner, and Franks.

Staff Present: (Majority) David Lachmann, Subcommittee Chief of Staff; Heather Sawyer, Counsel; Elizabeth Kendall, Counsel; and Paul Taylor, Minority Counsel.

Mr. NADLER. I call this meeting of the Subcommittee on the Constitution, Civil Rights, and Civil Liberties to order. We have four panels today, we will endeavor to do this with some dispatch. To begin with, I recognize myself for an opening statement. This hearing commemorates the 20th anniversary of the Americans With Disabilities Act of 1990 and provides us with an opportunity to reflect on our progress and affirm our commitment to achieving the ADA's full promise.

Heralded at its signing in 1990 as an emancipation proclamation for people with disabilities, the goals of the ADA are lofty, and embody core principals that made this Nation great. Equality of opportunity, independence and integration. Through broad non-discrimination, directives aimed at employers, government entities, and places of public accommodation, and requirements of reasonable accommodation and modification that are designed to dismantle architectural and societal barriers, the ADA has transformed our world.

Some of those changes are visible: lifts on busses, elevators and subway stations; power assisted and wider doors, designated parking spots, curb cuts; and as with today's hearing, closed captioning. Others are not so visible but are powerfully important nonetheless. Those less visible changes, the slow breakdown of the disabling stereotypes, myths, prejudice and stigma are also happening because of the increased access and opportunity made possible by the ADA.

As we witness and benefit from the contributions of family members, colleagues and neighbors with disabilities, outdated and misguided beliefs are challenged and changed. While we still have a long way to go, our passage of the ADA Amendments Act of 2008 is yet another mark of our progress on this front.

Through the ADA Amendments Act, we responded to the Supreme Court's unduly narrow interpretation of the definition of disability, and reaffirmed our commitment to focusing on ability; the ability to do a job, to participate in programs, services or activities, or to thrive in a community-based setting, rather than the degree or severity of our limitations. Thus we will hear from the witnesses who are with us here today, we have much to celebrate.

We also know that we have not reached the finish line, and that much work remains. As you will hear today from Assistant Attorney General Thomas Perez and Casandra Cox, we must continue working to end the unnecessary institutionalization of people with disabilities.

Ms. Cox was placed in an adult home following a short hospitalization. Despite her request for assistance in finding an appropriate community-based placement, she remained in that home for 3 years until she was able—through persistence and good luck in being selected for a State pilot program—to find a community-based placement where she has thrived.

The ADA's promise of integration and independence should not depend on persistence or on luck. More than 10 years ago in *Olmstead v. L.C.*, the Supreme Court declared that unnecessary institutionalization violates the ADA, and that States must ensure that individuals receive services in the least restrictive setting possible. Yet thousands of individuals like Ms. Cox—individuals who can and should receive services in community-based settings—remain warehoused in large institutions. This remains true despite the fact that former residents are thriving in supportive settings at costs that are lower than, or equal to, the cost of institutional care.

Work to make public transit systems and brick and mortar structures accessible also remains unfinished. Twenty years after the ADA required readily achievable changes to existing structures and set out standards for new buildings, many brick and mortar facilities remain inaccessible. And while we have made great strides in our public transit systems, significant gaps and ongoing problems remain.

Continued noncompliance with Titles II and III of the ADA is inexcusable. While we should continue to pursue proposals that promote voluntary compliance like the Department of Justice's Project Civic Access, we should rightly reject any measure that threatens the ADA's promise of access and integration. Even as we press forward to ensure greater access to physical places and programs and services, we cannot lose sight of the need to ensure that evolving technologies are also accessible.

In the 20 years since the ADA's passage, technology has revolutionized the way we work, learn, shop and socialize. While these events ultimately may offer individuals with disabilities unprecedented access and opportunities, we have yet to see that full potential realized.

During a Subcommittee hearing this past spring focusing on access to emerging technology as a civil rights issue under the ADA, we urged the Department of Justice to issue regulations and additional guidance to achieve greater compliance with the ADA's equal access obligations with regard to the Internet and other evolving technologies. I hope we hear more today about the Department's plans to do so.

As we celebrate our progress and set our sights on the challenges that remain, I would like to take a moment to recognize and thank my colleague, Jim Sensenbrenner. My colleague from Wisconsin first introduced the ADA Restoration Act in the 109th Congress and worked with the majority leader, Representative Steny Hoyer—who is one of the ADA's greatest champions, and who we are also honored to have here with us today—to ensure passage of the ADA Amendments Act of 2008 in the 110th Congress.

The full Judiciary Committee favorably reported that bill by unanimous vote. For those of you who are not that familiar with this Committee, the full agreement on anything in this Committee is, to say the least, unusual. And I thank the Ranking Member for his leadership, and I thank all of my colleagues on both sides of the aisle for setting aside our differences on other issues to come together on such a critically important issue. Our collaboration on the ADA Amendments Act which was then passed by an overwhelming majority of the House, illustrates an enduring bipartisan commitment to achieving the full civil rights for Americans with disabilities, some of whom are with us today to share their stories and to bear testament to the real impact that the ADA has had on the lives of millions. It shows that when we can lay aside our differences for a common purpose, we can achieve great things.

I look forward to hearing from the witnesses today and to working toward the day when the full promise of the ADA is finally achieved. I yield back and recognize for an opening statement, the distinguished Ranking Member.

Mr. SENSENBRENNER. Thank you very much, Mr. Chairman. Twenty years ago, this country took a significant step forward in eliminating the barriers that far too long kept disabled Americans from fully participating in everything the American dream has to offer. Prior to the Americans With Disabilities Act of 1990, disabled Americans faced not only physical barriers in almost all aspects of society, but also attitudinal barriers, which relegated them to a form of second class citizenship.

Moreover, because Federal and State laws were ill equipped to protect disabled Americans at the time, the discriminatory treatment employed by others created a vicious cycle that perpetuated false stereotypes. As a result, disabled Americans experienced lower graduation and employment rates, higher poverty rates, and less personal freedom and independence than more able-bodied citizens.

The ADA, enacted on July 26th, 1990, broke this vicious cycle by helping restore the full meaning of legal protection under the law. Like the civil rights laws that came before it, this landmark bipartisan law has worked to transform our Nation. As a result of the ADA, fewer citizens are judged by their physical and mental im-

pairments, and are now evaluated according to their character and qualifications.

In the last Congress, I worked with Majority Leader Hoyer to achieve the enactment of the ADA Amendments Act of 2008, which further fulfilled the promise of the ADA making clear the intent of Congress to cover a broad group of individuals with disabilities under the Act. That legislation served to eliminate the problem of the courts focusing too heavily on whether individuals are covered by the law rather than on whether discrimination occurred.

My wife, Cheryl, who was then chairman of the Board of the American Association of People With Disabilities, and who is a witness here today, was dogged in her advocacy for that legislation. In fact, when she got people to commit to cosponsoring the ADA, and they came up to me and said they had second thoughts about that, I said call up Cheryl. None of them did.

Congress intended for the ADA to expand its broad protections into five areas, including the employment sector of the services programs and benefits provided by State and local governments, places of public accommodation and the services they provide, transportation services and facilities and telecommunication services. Equally important are the changes in societal attitudes that are starting to occur as a result of the ADA, particularly as it relates to the educational and employment opportunities of disabled Americans.

Increased educational and employment opportunities have allowed disabled Americans to experience higher graduation rates, higher employment rates and lower rates of poverty than before. Because of the ADA, disabled citizens no longer live in isolation, but live as independent self-sufficient members of our communities.

Many of the witnesses at our hearing today can speak about the progress and promise of the ADA from personal experience. Those witnesses include a young man who suffered a disability at the age of 8, and who has come of age under the ADA. His is a story of integration into schools and peer groups that likely could not have been told if it were not for the ADA. Our witnesses include a woman who has moved successfully from adult home to her own apartment with some support and assistance. The approval of her transition was not as easy as it should have been, but now that her move has been approved, hers is a story of increased independence and personal fulfillment that also could not have been told if it were not for the ADA. The bipartisan witnesses here today include a former Republican Attorney General governor of Pennsylvania and a Member of Congress.

In essence, the ADA is not about statutory text or legal jargon, it is about individual human beings who are not able to explore and develop more of their own capabilities. Becoming more self-sufficient is essential to human happiness, and that is what the ADA has made possible. It has made the world not only more accessible, it has made it a happier place. Fewer Federal laws can claim as much so clearly that we rightfully celebrate the ADA here today. The ADA has been one of the most effective civil rights laws ever passed by Congress. Its continued effectiveness is paramount to ensuring that the transformation that our Nation has undergone continues into the future, and that the guarantees and promises on

which this country was established continued to be recognized on behalf of all of its citizens. I look forward to hearing from our witnesses today and yield back the balance of my time.

Mr. NADLER. I thank the gentleman, I now recognize for an opening statement, the gentleman from Virginia.

Mr. SCOTT. Thank you, Mr. Chairman, and thank you for holding this hearing to commemorate the 20th Anniversary of the Americans With Disabilities Act and to examine the progress we have made as well as the direction we need to continue to move in toward the future.

In 1990, then-President George H.W. Bush signed the Americans With Disabilities Act into law. It was the most significant piece of Federal civil rights legislation since the signing of the Civil Rights Act by President Johnson in 1964 and 1965. There has been a tremendous success and as a result of the, ADA, millions more Americans with disabilities are actively participating in the workforce as employers in government and private businesses alike, are required to make reasonable accommodations whenever feasible to encourage and enable individuals with disabilities to participate in the social and economic fabric of American life. But it was not the first legislation to do so.

Mr. Chairman, in early 1980's, when I was a member of the general assembly, 64 disability organizations formed an organization called INVEST, Insure Virginians Equal Status Today to pass a State statute in Virginia to protect individuals with disabilities from discrimination. I was a Member of the Senate Committee that considered the legislation, and we dealt with many of the contentious issues such as what is a reasonable accommodation, and we worked through all of those issues. And in 1985, the Virginians With Disabilities Act was signed into law by then-Governor Charles S. Robb. Today, the Act protects nearly 1 million residents of the Commonwealth of Virginia. This Act acknowledged that, "it is the policy of the Commonwealth to encourage and enable persons with disabilities to participate fully and equally in the social and economic life" and it protects Virginians with disabilities from discrimination and employment, education, housing, voting and places of public accommodation.

It preceded the Federal Americans with disabilities Act by 5 years. And many of the key concepts of the Virginia statute formed the basis of the ADA. The landmark Virginians with Disabilities Act was the Commonwealth's commitment to encourage persons with disabilities to participate fully in the social and economic life of the commonwealth. Five years later the Americans with Disabilities Act of 1990 was enacted to protect all Americans against discrimination on the basis of disability.

Mr. Chairman, I am proud that 20 years later, we're able to look back upon the passage of the Federal Americans with Disabilities Act and recognize the importance of this legislation and the changes made in American society. But our work is not yet done. The law is stable and cannot stand still, it must continue to evolve. We must continue to revisit the ADA and to examine whether it is accomplishing its purpose. And when we find it is not, we must be willing to make changes necessary to do so.

One recent example of this willingness occurred in last Congress when we passed Americans With Disabilities Amendment Act of 2008 which was signed into law by President George W. Bush and became effective January 1st, 2009. The ADA Amendments Act restored the ADA to Congress's original intent by clarifying that coverage under the ADA is broad and covers anyone who faces unfair discrimination because of disability, and it overturned several court decisions that held people with disabilities would lose their coverage under the ADA simply because their condition is treatable with medication but can be addressed with the help of assistive technology.

That legislation was the direct result of the business and disability communities working together to rectify a problem that was created by the courts. It is my hope that this kind of commitment, determination and cooperation will continue into the future so that individuals with disabilities will forever be able to secure, and maintain employment without fear of being discriminated against because of their disability.

I thank you for holding the hearing, Mr. Chairman. I look forward to hearing our witnesses today.

Mr. NADLER. I thank the gentleman. Without objection, all Members have 5 legislative days to submit opening statements for inclusion in the record. Without objection the Chair will be authorized to declare a recess to the hearing. I notice that we've just been joined by the gentleman from Tennessee who will be recognized for a brief opening statement.

Mr. COHEN. Thank you, Mr. Chairman. Very briefly, I appreciate the opportunity to speak. When I was in the State legislature I helped pass the State ADA bill in Tennessee, and there were people who didn't understand the need for it. Is a great need, and whenever I drive and I see curb cuts and I see people with wheelchairs using those curb cuts I think of how great that bill is and how necessary it was and how callous it was for people to think we didn't need to pass such a bill. Any opportunities we give people who have disabilities, and in all cases, it is there but for the grace of God, that everybody should have the opportunity to have full access to all the opportunities that the country offers. This city is tourist friendly and people get around and walk, and if you're in a wheelchair you need to have those curb cuts, you need opportunities to have hand braces and whatever.

Personally as a child, I had polio and that's just something that happens, you get the virus or don't get the virus. It has nothing to do with anything else. So many illnesses are that way. It is the lottery of life. And we ought to protect it, it is like insurance. And it is a great insurance that the American government can give. I appreciate the ADA and what it does for folks and gives them better opportunities. I'm happy to be here and I thank people who were the original sponsors, Mr. Langevin and Mr. Hoyer, for their work on this and the Chairman. Thank you. I yield back the remainder of my time.

Mr. NADLER. I thank the gentleman. I am now pleased to introduce two of our esteemed colleagues. Congressman Steny Hoyer is the majority leader of the House of Representatives, and the Representative of Maryland's 5th congressional district. He was elected

to the Maryland Senate at age 27, and at 35, he was chosen as its president, making him the youngest president in the Senate in State history. Now serving his fifteenth term in the House, he's the longest serving Member in the House of Representatives for Maryland in history. Among his many legislative accomplishments, Congressman Hoyer is known for guiding the landmark Americans With Disabilities Act in 1990, and he has continued to fight for the rights of the disabled through his leadership in the passage of the ADA Amendments Act of 2008.

Congressman Jim Langevin is the Representative of Rhode Island's second congressional district. Congressman Langevin first ran for public office in 1986. He was elected as delegate to Rhode Island's constitutional convention and served as its secretary. Two years later, he won an election to the Rhode Island House of Representatives. 1994 Congressman Langevin became Secretary of State of Rhode Island, an office in which he served until his first election to Congress in 2000. Congressman Langevin is a Member of the House Armed Services Committee and Chair of the Strategic Forces Subcommittee. He also serves on the Permanent Select Committee on Intelligence and on the House Committee on the Budget. I am pleased to welcome you both.

I would now like to begin by recognizing Mr. Hoyer.

**TESTIMONY OF THE HONORABLE STENY H. HOYER, A REPRESENTATIVE IN CONGRESS FROM THE STATE OF MARYLAND**

Mr. HOYER. Mr. Chairman, thank you much. I appreciate this opportunity to be here, both with Jim Langevin—the green light's on. Am I on? I appreciate the opportunity to be here with Mr. Langevin in particular. What a symbol he is of the success of the Americans with Disabilities Act. I'm also, of course, very pleased to be here with my friend, Jim Sensenbrenner, and the chief lobbyist in his household—

Mr. NADLER. Steny, could bring the mike a little closer to you?

Mr. HOYER. There? All right, I'm still pleased to be here. I was saying about Jim and Cheryl Sensenbrenner, who have been two giants in the promotion of the Americans With Disabilities Act in its passage and the continuing focus to make sure that its promise was realized. And I thank them both for their help. It was a bipartisan bill, overwhelmingly passed in the House and the Senate. I want to mention, of course, Senator Kennedy, who is not with us, but who was extraordinarily important in passing the ADA. I also want to mention Senator Harkin in the Senate who was the principal coordinator of the efforts in the Senate. And of course, the Chairman of this Committee, John Conyers, who was so important in the passage of this bill.

Everybody has mentioned, of course, Dick Thornburgh, Attorney General Thornburgh, Governor Thornburgh, he and his wife, both giants in the support of and education of so many of us on the challenge confronting those with disabilities. It has been mentioned over and over again, but this is a historic time, 20 years, 2 decades since the passage of the Americans With Disabilities Act. The first President Bush signed into law one of the most consequential pieces of civil rights legislation in recent memory.

Indeed, as Mr. Scott pointed out it has been called, and I think you did as well, Mr. Chairman, the most significant civil rights legislation in 25 years, since the passage in 1965 of the Civil Rights Act of 1965.

In the ceremony on the South Lawn of the White House President Bush said this, and I quote, "With today's signing of the landmark Americans With Disabilities Act every man, woman and child with a disability can now pass through once closed doors into a bright new era of equality, independence and freedom." In large measure he was right. Those doors certainly have come open. Tens of millions of Americans with disabilities now enjoy rights, the rest of us have long taken for granted. The right to use the same streets, theaters, restrooms, offices, the right to prove themselves in the workplace. And focus on the content of their character and their abilities, not their disabilities. To succeed on their talent and drive alone. We all understand why there are cuts in the sidewalk as has been mentioned, in every street corner, kneeling buses on our city streets, elevators on the Metro, ramps to movie theaters, and accessible restrooms and handicapped parking almost everywhere.

Each one, Mr. Chairman, is a sign of a pledge. A promise of an America that excludes none of its people from its spirit of equal opportunity. I have observed numerous times over the last couple of days that in our declaration of independence, we said that all men and all women, included hopefully generically in that term, were created equal and endowed by their creator with certain unalienable rights, among these life, liberty and the pursuit of happiness.

On a regular basis, America has had to look at that promise of 1776 and said it was not living out the pledge of that promise, whether it was the Civil War, the 13th or 14th Amendment when we said African American citizens were not treated in a manner consistent with that promise, or whether it was in the early part of the last century when we said to women in this country, we have not lived out the promise that we made, or whether it was in the late '50's and '60's when we said again to African-Americans that not withstanding constitutional amendments, not withstanding a Civil War we were still discriminating against fellow citizens on the basis of the color of their skin.

So we adopted in 1964 and '65, and indeed in '57, and since then, reminders to ourselves that we had not reached the promise of that pledge. Again, in 1990, Mr. Chairman, we again reaffirmed that the pursuit of happiness should be open in America to all, and that we ought to facilitate that pursuit by all irrespective of any challenges they confronted.

The ADA was a demonstration of just how much we can accomplish when Republicans and Democrats, business leaders and activists work together to strengthen the ideals that unite us as Americans. The ADA wasn't simply a collection of rules, as Mr. Sensenbrenner has so correctly observed in his opening statement. It was a set of principals that we have to work to adapt to changing times. That's what Congress did when we strengthened the ADA and returned it to its original intent by passing the ADA Amendment Act.

Again, I want to thank my friend, Jim Sensenbrenner and his wife Cheryl for being giants in the leadership in effecting those amendments which said to the Supreme Court and to America that we needed to focus on discrimination, not on the disability. Whether disabled or perceived to be disabled, if one were discriminated against on that basis, we meant in the law that that was against the law. Those amendments restated and reemphasized that proposition.

Again with strong support, that bill was passed and signed by President Bush's son. How appropriate the father and son would be able to sign both the original Disabilities Act and the confirmation of the intent of that Act. That's what we did today when we announced that we made the House rostrum wheelchair accessible for the first time. I mentioned a little earlier today Mr. Chairman in a press conference that Josh Grobin, a famous singer that many of you know with a wonderful voice sings a song You Lift Me Up.

The song essentially says you lift me up to walk on troubled waters and to climb mountains. The last line of that song is you lift me up beyond what I can be—actually it says to more than I can be. I said today as we had a press conference about the rostrum being made accessible to Jim Langevin, who will, on Monday, preside as we consider legislation regarding the Americans With Disabilities Act, Jim Langevin will be lifted up by a mechanical device, which under the statute is called a reasonable accommodation, because he is fully able to preside by intellect and by character. But until just a couple of months ago, that rostrum was not accessible. How proud all of us will be when Jim Langevin will be lifted up to preside over the House of Representatives for all Americans to see, and indeed people around the world, that America does not believe that there ought to be barriers to participation and inclusion.

That's what the Americans with Disabilities Act said, and that's what its predecessor, the Civil Rights Act said, that we wanted to open up and make clear that America was a land of opportunity, not just for some, not just for White men, but for peoples of all colors, of all races, of all nationalities, of all distinctions that were not related to ability and character. Jim Langevin will preside on July 26th, 2010, two decades after the passage of the Americans with Disabilities Act.

The ADA's mission of inclusion and equal opportunity is, of course, as all have observed, still a work in progress, as is the pledge that was made in 1776 for the pursuit of happiness. We understand even in America that that pledge has not yet been fully redeemed, and this Committee more than most—and this Subcommittee, more than most, is ever vigilant to seek the full realization of that promise. Now, Mr. Chairman, I thank you and the Members for that.

Americans with disabilities are still disproportionately, however, less likely to have a job and more likely to be poor than their fellow Americans. Many Americans with disabilities still struggle to get equal treatment in the classroom, to find transportation to work or to cast ballots independently or privately. Changing technologies, as you said, Mr. Chairman, from touch screens to Internet broadcast pose new accessibility challenges.

So Mr. Chairman and Members of the Committee, Mr. Conyers, I mentioned you before that. No one has been in the fight for civil liberties for constitutional guarantees for those who have been shut out and discriminated against more than you. And we honor you this day for the role that you played in the passage of the Americans with Disabilities.

Mr. Chairman, as we mark this anniversary let's remember the work that we have in front of us. The ADA made America a model for other nations and a world leader on one of the central challenges of human rights. It is my hope that Congress will live up to the legacy of the ADA and continue to maintain that leadership. Thank you very much, Mr. Chairman. And I'm honored to be here, as I said, with Mr. Langevin and Mr. Conyers and all of you.

[The prepared statement of Mr. Hoyer follows:]

PREPARED STATEMENT OF THE HONORABLE STENY H. HOYER, A REPRESENTATIVE IN  
CONGRESS FROM THE STATE OF MARYLAND, AND HOUSE MAJORITY LEADER

**House Majority Leader Steny H. Hoyer (MD)**

**Hearing on the Americans with Disabilities Act at 20 – Celebrating Our Progress,  
Affirming Our Commitment**

**Subcommittee on the Constitution, Civil Rights, and Civil Liberties**

**July 22, 2010**

“Twenty years ago on Monday, the first President Bush signed into law one of the most consequential pieces of civil rights legislation in recent memory. In the ceremony on the South Lawn of the White House, he said this: ‘With today’s signing of the landmark Americans with Disabilities Act, every man, woman, and child with a disability can now pass through once-closed doors into a bright new era of equality, independence, and freedom.’

“And in large measure, he was right: Those doors have come open. Tens of millions of Americans with disabilities now enjoy rights the rest of us have long taken for granted: the right to use the same streets, theaters, restrooms, or offices; the right to prove themselves in the workplace, to succeed on their talent and drive alone. We all understand why there are cuts in the sidewalk at every street corner, kneeling busses on our city streets, elevators on the Metro, ramps at movie theaters, and accessible restrooms and handicapped parking almost everywhere. Each one is the sign of a pledge: the promise of an America that excludes none of its people from its spirit of equal opportunity. Since its passage, the ADA has helped 50 million Americans live richer lives—and it has helped our country take advantage of a resource that for too long was untapped: the talents of people with disabilities.

“The ADA was a demonstration of just how much we can accomplish when Republicans and Democrats, business leaders and activists, work together to strengthen the ideals that unite us as Americans. The ADA wasn’t simply a collection of rules: it was a set of principles that we have to work to adapt to changing times. That’s what Congress did when we strengthened the ADA and returned it to its original intent, by passing the ADA Amendments Act—again with strong bipartisan support, and again signed by a Republican president. And that’s what we did today, when we announced that we have made the House rostrum wheelchair accessible for the first time—an acknowledgement that the People’s House must meet the challenges of accessibility.

“The ADA’s mission of inclusion and equal opportunity is still a work in progress. Americans with disabilities are still disproportionately less likely to have a job, and more likely to be poor than their fellow Americans. Many Americans with disabilities still struggle to get equal treatment in the classroom, to find transportation to work, or to cast a ballot independently and privately. Changing technologies, from touchscreens to Internet broadcasts, pose new accessibility challenges.

“So as we mark this anniversary, let’s remember the work we have in front of us. The ADA made America a model for other nations and a world leader on one of the central challenges of human rights. It is my hope that Congress will live up to the legacy of the ADA and continue to maintain that leadership.”

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Mr. NADLER. Thank you. I will now recognize the Honorable Jim Langevin.

**TESTIMONY OF THE HONORABLE JAMES R. LANGEVIN, A REPRESENTATIVE IN CONGRESS FROM THE STATE OF RHODE ISLAND**

Mr. LANGEVIN. Thank you, Mr. Chairman, Ranking Member Sensenbrenner, and of course, Chairman Conyers. Let me thank you for the opportunity to offer my testimony as we commemorate the 20th Anniversary of the Americans With Disabilities Act. Let me, in particular, say what a privilege it is for me to be sitting next to Majority Leader Hoyer, a true champion and visionary and leader in the passage of the Americans With Disabilities Act.

Today, many of us have nearly forgotten an era in which it was commonplace for a person to be denied employment because she was blind or unable to attend University because he was in a wheelchair. Yet, it was only a generation ago when the societal norm was to treat individuals with disabilities as second class citizens. As a Member of the House of Representatives, founder and co-chairman of the bipartisan disabilities caucus, and someone who has lived with the challenges of a disability, both before and after the ADA's enactment in 1990, I have experienced firsthand the profound changes that this law has affected within our society.

When I was paralyzed almost 30 years ago at the age of 16, my life changed forever and as I lay in a hospital bed, I wondered what life could possibly have in store for me next, what opportunities would I have in life? How would I find my path knowing the challenges ahead of me? But I drew strength and inspiration with other people with disabilities who had gone on to accomplish things in their own lives that were meaningful to them and they taught me that there certainly was life after a disability.

I was also incredibly lucky to have the support of my family and my community, and of course, my deep faith in God got me through one of the most challenging times in my life. Along with that and my family and my community, whose generosity and concern ultimately made me want to get to Rhode Island to a career in public service. But for many individuals with disabilities, they were not as lucky or as fortunate.

For all of us, the ADA has been a profoundly life altering law that has provided new opportunities and fundamentally changed the way society views and treats people with disabilities. Changing the hearts and minds of a Nation only comes with extraordinary leadership, and I just would like to take a moment once again to recognize my colleague and someone who has also been a mentor, House Majority Leader Steny Hoyer. Twenty years ago, he was so instrumental in passing the Americans With Disabilities Act. So many ways he was important in obviously leading through and passing the single most important civil rights law to disabled individuals in our country's history. And let me just say to Steny that I will never forget that it is largely thanks to your vision and your leadership that I am here serving in the Congress today.

Of course, leader Hoyer was not alone in his vision and his efforts to guarantee equal rights for the disabled. He was joined by giants in the civil rights community and disabilities community. Civil rights pioneers, if you will like Allen Reich and Justin and Yoshiko Dart, Tony Coehlo, a former Member of Congress, a colleague who I am proud to call friend, Senators like Senator Ken-

nedey and Senator Harkin and the distinguished Ranking Member of this Committee, Jim Sensenbrenner and so many others. They all played an unmistakable role in the passage of the ADA which codified the collective ideal that no one should suffer discrimination because of a disability. It shattered barriers, opening schools, sidewalks, public transportation, public accommodations and work places to millions of individuals.

And we're also making progress even today in the halls of Congress. When I arrived 10 years ago as the first quadriplegic to serve in the House, some changes had to be made to accommodate my service, beginning with Speaker Hastert and continuing on under Speaker Pelosi's leadership. I've been overwhelmed by this bipartisan effort and by the commitment to make the Capitol complex fully accessible to Members of Congress, staff and visitors.

Let me say that I am particularly happy to report, as leader Hoyer mentioned, that the Speaker's rostrum now has just been made fully accessible to wheelchair users.

On Monday, I will have the truly humbling honor and thrilling experience of presiding over the House of Representatives for the very first time. Let me say that I've often said that I may be the first quadriplegic Member to serve in Congress, but I certainly will not be the last. And I am so excited for all those people with disabilities who will come after me and who will serve in this body. I hope that this historic moment will serve as an inspiration and reminder to all that we can always overcome challenges, always overcome obstacles, and that we can always reach new heights. We just need the tools to do it.

It is more important than ever that we connect businesses with resources to create more employment opportunities. Obviously, our work is not yet done until every person with a disability who can work and wants to work can find a job.

We also make transportation and technology more accessible and available, and we must provide more resources to teachers and students to achieve a better education. And we must focus on income and asset development so families have the means to become productive members of their community. And finally, we need to inform individuals with disabilities of their rights under the ADA and what resources are available should they face discrimination at any level.

Mr. Chairman, we've come so far, but we, so much, of course, have more work ahead of us. Disabilities don't discriminate on the basis of party affiliation, income or gender. Instead, they have, of course, the unique ability to unite us in common purpose. If we act in the courage and commitment of our predecessors then we will provide the means for every individual to realize the true promise of the ADA. And I am confident that on this 20th anniversary of the passage of the Americans With Disabilities Act, that there is a better America, a stronger America ahead of us.

Thank you, Mr. Chairman, and I yield back.

[The prepared statement of Mr. Langevin follows:]

PREPARED STATEMENT OF THE HONORABLE JAMES R. LANGEVIN,  
A REPRESENTATIVE IN CONGRESS FROM THE STATE OF RHODE ISLAND

**Congressman James R. Langevin**  
**Hearing Testimony: Americans with Disabilities Act at 20 –**  
**Celebrating our Progress, Affirming Our Commitment**

Chairman Nadler, Ranking Member Sensenbrenner and members of the committee, thank you for providing me the opportunity to offer my testimony as we commemorate the 20<sup>th</sup> Anniversary of the Americans with Disabilities Act (ADA).

Today, many of us have nearly forgotten an era in which it was commonplace for a person to be denied employment because she was blind, or unable to attend a university because he was in a wheelchair. Yet it was only a generation ago when the societal norm was to treat individuals with disabilities as second-class citizens.

As a member of the United States House of Representatives, Co-Chair of the Bipartisan Disabilities Caucus, and someone who has lived with the challenges of a disability both before and after the ADA's enactment in 1990, I have experienced, first hand, the profound changes that this law has effected within our society.

This groundbreaking legislation codified the collective ideal that no one should suffer discrimination because of a disability. It shattered countless barriers, empowered millions of Americans to flourish in their personal and professional lives, and provided a greater level of productivity and inclusion within our society.

Changing the hearts and minds of a nation only comes with extraordinary leadership and vision. I'd like to take a moment to recognize my colleague and mentor, the House Majority Leader, Steny Hoyer. Twenty years ago, he was instrumental in passing the bill that would become the single most important civil rights law to individuals with disabilities across the country. It is due in large part to his dedication that I have the honor to be here today.

Of course, he was not alone in his ambition to guarantee equal rights for the disabled. He was joined by such visionaries and civil rights pioneers as Alan Reich, Justin and Yoshiko Dart, former Congressman Tony Coehlo, Senator Tom Harkin, Senator Ted Kennedy, the distinguished Ranking Member of this Committee, Jim Sensenbrenner, and many others.

They all played an unmistakable role in passage of the ADA, which has empowered over 50 million Americans to live more productive and fulfilling lives, and mine is no exception.

I was injured at the age of 16 when a gun accidentally discharged, severing my spinal cord and rendering me quadriplegic. The accident occurred in 1980, 10 years before the enactment of the ADA. For many individuals with disabilities, this meant that they did not have access to buildings like schools and libraries, they couldn't find employment opportunities, and they didn't have legal protections against discrimination. This would

ultimately affect where I received my own education because Rhode Island College was my only school of choice that could make the appropriate accommodations. Although they weren't perfect, they were years ahead of their time. But accessibility was not yet considered a civil right in 1981, and I know that many students with special needs across the country were not as lucky as I was.

Rhode Island College provided me with a great education and the opportunity to put some of my new dreams to the test. Additionally, the tremendous outpouring of support that my community showed after my accident made me want to give back. It inspired me to run for public office in 1986, which began a long and fulfilling career in public service that has included a seat in the Rhode Island General Assembly, two terms as Secretary of State and my eventual election to the United States Congress in 2000.

My work in government has always flowed from the fundamental idea of personal empowerment. As someone who lives with a disability, I know all too well the challenges that people with disabilities face in their daily lives. However, I also am keenly aware of their *abilities* and their limitless potential when given the opportunity to contribute.

Today, students no longer have to make choices about their education based on ramps and doorway width. They can make these choices based on the same criteria their peers use – the quality of education and the dreams they want to pursue.

Employers are learning how to make workplaces more accessible, utilizing assistive technologies to open doors for employees with disabilities. Businesses across the country are finally recognizing the innate potential of the disabled community. Many individuals have both the desire and capability to work, as well as exceptional talents to offer. All it takes is a little awareness and accommodation, and our economy and society can reap countless economic and social rewards.

We are also making progress in the Halls of Congress. When I arrived ten years ago, as the first quadriplegic ever to serve in the House of Representatives, some changes had to be made to accommodate my service. The historic buildings of the Capitol weren't built with today's accessibility standards in mind. But beginning with Speaker Hastert and continuing under Speaker Pelosi's leadership, I have been overwhelmed by the commitment to making the Capitol complex fully accessible to members of Congress, staff and visitors.

I am particularly happy to report that the Speaker's rostrum at the front of the House chamber has just been made fully accessible to wheelchair users. In the very near future, I will have the truly humbling honor of presiding over the House Floor for the very first time. I have often said that I may be the first quadriplegic member of Congress, but I certainly won't be the last. It is my hope that this historic development will serve as a reminder to others that there are always new obstacles to surmount and new heights to be reached.

We have made tremendous advances in accommodating citizens with disabilities. However, commemorating the 20<sup>th</sup> anniversary of the ADA is not just a time to celebrate our achievements, but an opportunity to reflect on how we might improve upon them.

It was with this conviction that Congress passed the ADA Amendments Act in 2008, a bill to reaffirm the original intent of the ADA and ensure that its protections apply broadly to all individuals with disabilities, even to those whose conditions might not be visibly apparent, like diabetes, epilepsy, and various developmental disabilities. It is with that same conviction that we must embrace fresh ideas and seek new paths of advancement.

Individuals with disabilities remain one of our nation's greatest untapped resources, and they continue to face challenges in accessing employment, transportation, housing and even health care. This will only continue as we see increasing numbers of veterans returning with Traumatic Brain Injury, Post Traumatic Stress Disorders and other disabling conditions.

It is more important than ever that we educate businesses and connect them with proper resources to create more employment opportunities in our communities. We must collaborate with local and state governments to ensure that transportation is available and accessible to everyone so they can get to their job, or the doctor, or the grocery store. We need to provide more resources for our teachers so that every child can receive a proper education, which is the stepping stone to a better future.

We must also continue the development of assistive technologies and make sure that computers, PDAs and phones are fully accessible for the vision and hearing impaired. We must focus on income and asset development so families have the means to become productive members of their communities. Finally, we need to inform individuals with disabilities of their rights under the ADA, as well as what recourse is available to them should they face discrimination at any level.

Mr. Chairman, we have come so far, but we have much more work ahead. Disabilities don't discriminate on the basis of party affiliation, income level or gender; instead, they have the unique ability to unite us in common purpose. If we act with the same courage and commitment as our predecessors, then we will provide the means for every individual to fulfill his or her potential and realize the true promise of the ADA on its 20th Anniversary.

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Mr. NADLER. Thank you, and thank you for your testimony and for your work on this and other subjects over the years. I know our colleagues have very busy schedules, so if there are no questions they are excused with our thanks.

Second panel. I would ask the witness Attorney General Thomas Perez to take his place. I understand the gentlelady from Wisconsin seeks recognition for a brief statement. Without objection, I yield to her.

Ms. BALDWIN. Thank you, Mr. Chairman. I am very pleased that you are holding this important hearing on the Americans With Disabilities Act and its impact 20 years following its passage. And I want to join my colleagues in appreciating the testimony of our first panel and our successor panels of witness.

I think it is really important that we take the time to recognize this milestone and celebrate the good work that is happening across the country to remove barriers and improve lives for Americans with disabilities. And I do hope that by celebrating this anniversary, we can refocus on the work that lies still ahead.

Mr. Chairman, I want to extend my special thanks to the ADA Wisconsin Partnership, the Wisconsin Coalition for Advocacy, the Wisconsin Board for People With Developmental Disabilities, and the numerous Wisconsin State organizations which have been instrumental in promoting full implementation of the ADA across the State of Wisconsin. We could not have made the great strides we have made without their very hard work and attention.

I also want to recognize the American Association of People With Disabilities and thank them for their summer internship program here on Capitol Hill for students with disabilities. My office was lucky enough to be placed with an intern through this program, Meredith Nichols, who has been an incredible asset to the work that we do. She is also a fellow Smithy, my alma mater. I have been pleased to really get to know her a little bit and I'm glad to see she is in the audience here today.

I would like to ask that my full statement be submitted for the record and will close by thanking you again, Mr. Chairman, for holding this hearing. It is really my hope that it will serve to highlight the positive outcomes from the ADA as well as provide a strong record of our commitment to take the next steps in insuring all Americans with disabilities are able to lead full and fulfilling lives. I yield back my remaining time.

Mr. NADLER. Thank you, without objection, your full statement will be recorded in the record.

[The prepared statement of Ms. Baldwin follows:]

PREPARED STATEMENT OF THE HONORABLE TAMMY BALDWIN, A REPRESENTATIVE IN CONGRESS FROM THE STATE OF WISCONSIN, AND MEMBER, SUBCOMMITTEE ON THE CONSTITUTION, CIVIL RIGHTS, AND CIVIL LIBERTIES

**Opening Statement  
Congresswoman Tammy Baldwin  
Subcommittee on the Constitution, Civil Rights, and Civil Liberties  
Hearing on Americans with Disabilities Act at 20:  
Celebrating Our Progress, Affirming Our Commitment  
July 22, 2010**

Thank you, Chairman Nadler, for holding this important hearing on the Americans with Disabilities Act and its impact twenty years following its passage. I want to join you in welcoming our colleagues, Majority Leader Hoyer and Mr. Langevin, and all of the witnesses here to testify today.

I am a strong supporter of the ADA and its role in improving access for people with disabilities to more fully participate in our society. As we gather today to commemorate 20 years of work to fight against discrimination based on disability, I think it is incredibly important to recognize this important milestone and celebrate the good work happening across the country to remove barriers and improve lives. I do hope that by celebrating this anniversary, we can refocus on the work that still lies ahead.

Mr. Chairman, I want to extend my special thanks to the ADA Wisconsin Partnership, the Wisconsin Coalition for Advocacy, the Wisconsin Board for People With Development Disabilities, and the numerous Wisconsin state organizations which have been instrumental in promoting full implementation of the ADA across the state of Wisconsin. We could not have made the great strides we have been able to make today without their hard work.

I also want to recognize the American Association of People with Disabilities (AAPD), and thank them for their summer internship program for students with disabilities. My office was lucky enough to be placed with an intern through this program—Meredith Nichols—who has been an incredible asset to the work we do. She is a fellow “Smithie” and I have been so pleased to get to know her a bit and hear of her contributions to the office.

In the twenty years since being signed into law, the ADA has played a crucial role in ensuring people with disabilities have greater access to goods and services.

For example, the Bureau of Transportation Statistics indicates that seventy-five percent of rail stations, as well as almost 100 percent of all buses, had become fully accessible just fifteen years after the ADA’s enactment. In addition, there has been an increase in the number of accessible commuter rail and light rail vehicles.

We have seen the establishment of Telecommunications Relay Services for residents of every state, which are being used to a much greater degree and are allowing those who are deaf or hard of hearing to communicate with more ease.

In the years since the implementation of the ADA, the number of employed people with disabilities denied a promotion, given less responsibility than co-workers, or denied health insurance or other benefits because of their disability has decreased.

While these are just a few of the positive impacts of the ADA, additional progress must be made. Numerous public transportation providers have failed to comply with the ADA and accessibility in rural areas is one particular area where there is room for improvement.

There are still businesses who do not fully understand how to use Telecommunications Relay Services and other accommodations mandated under the ADA. Many remain unaware of the legal obligation to provide these services.

Lastly, it is particularly troubling that the unemployment rate for people with disabilities remains high. It is unconscionable that one in five Americans with disabilities live in poverty, a statistic three times higher than those who do not have disabilities. This statistic has remained unchanged since the ADA's passage.

As I mentioned at the beginning of my statement, I have long been a steadfast advocate for disability rights. I am proud to have helped pass the Work Incentives Improvement Act, which offers disability beneficiaries greater choices in obtaining services they need to help them go to work and achieve their employment goals. I am also proud of my successful advocacy to expand the Violence Against Women Act to fund services for victims of domestic violence or sexual assault who have disabilities.

I am especially proud to have sponsored the *Christopher and Dana Reeve Paralysis Act*, which President Obama signed into law on March 30, 2009. According to the most recent data, approximately 1.84% of the United States population – that's almost 5.6 million people – lives with some form of paralysis. The leading causes of paralysis are stroke and spinal cord injury. The age of the average paralyzed American is just 52, and the average length of injury is over ten years.

Unfortunately, we have very little in terms of medical solutions for paralysis. There is no cure. In addition, much more still needs to be done to help people living with paralysis, who face barriers that impede their ability to have jobs, access health care, and manage their treatments.

*The Christopher and Dana Reeve Act* authorizes funding for collaborative research in paralysis – so that the National Institutes of Health (NIH) can provide money for ground-breaking research, but also ensure that all researchers are working together towards a cure. It also authorizes funding for a comprehensive resource center through the Centers for Disease Control (CDC), which will help improve the quality of life for those living with paralysis and mobility impairments. I was proud to work on this bipartisan legislation with Representatives Bono Mack (R-CA), Langevin (D-RI), and Bilirakis (R-FL).

Thank you again, Chairman Nadler, for holding this hearing. It is my hope that it will serve to highlight positive outcomes from the ADA as well as provide a strong record of our commitment to take the next steps in ensuring all Americans with disabilities are able to lead fulfilling lives.

I yield back my time.

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Mr. NADLER. In interest of proceeding to our witnesses and mindful of our busy schedules, I ask that other Members submit their statements for the record. I now introduce our witness, our second panel. Thomas Perez was nominated by President Obama to serve as Assistant Attorney General for Civil Rights Division and was sworn in October 8, 2009. Mr. Perez previously served as the Secretary of Maryland's Department of Labor, licensing and regulation, which protects consumers through the enforcement of a wide range of consumer rights, including the mortgage setting.

From 2002 until 2006 he was a member of the Montgomery County Council. Earlier in his career he spent 12 years in Federal public service, most of them as career attorney with the Civil Rights Division. Mr. Perez later served as Deputy Assistant Attorney General for Civil Rights under Attorney General Janet Reno. He received a bachelor's degree from Brown University, a Master's of Public Policy from the John F. Kennedy School of Government, and a Juris Doctorate from Harvard Law School.

I am pleased to welcome you, your written statement will be made part of the record in entirety. I would ask you to summarize your testimony in 5 minutes or less. I don't have to tell you what the light means, you've been here before. So—before we begin it is customary for the Committee to swear in its witnesses. Please stand and raise your right hand to take the oath.

[Witness sworn.]

Mr. NADLER. Thank you. Let the record reflect the witness answered in the affirmative. Mr. Perez, you are recognized.

**TESTIMONY OF THE HONORABLE THOMAS E. PEREZ, ASSISTANT ATTORNEY GENERAL, CIVIL RIGHTS DIVISION, UNITED STATES DEPARTMENT OF JUSTICE**

Mr. PEREZ. Thank you, Mr. Chairman. It is an honor to be back in front of your Committee. Thank for your leadership on this and so many other issues. And I want to also to thank Ranking Member Sensenbrenner for his unflagging leadership and being a consistent voice on behalf of people with disabilities, as well as his wife, Cheryl Sensenbrenner who has been recognized appropriately with great frequency.

I also want to thank Chairman Conyers for his leadership, not only on this, but so many other issues affecting vulnerable people. I would be remiss if I didn't thank the former Attorney General Thornburgh, who among other things, gave me my first job at the Department of Justice in 1989. And I will also note for the record that he was my boss's boss, because Attorney General Holder also worked as a career civil servant under Attorney General Thornburgh, who also has a wife who has been a champion of disability rights. So I want to say thank you to all of them and so many others.

The enactment, as you know, of the ADA, was a model of bipartisan efforts to advance the greater good. The ADA has literally opened doors and opportunities for individuals with disabilities across the Nation. At the Civil Rights Division, we have used all of our tools in our law enforcement arsenal to give full force to the meaning of ADA. We have filed lawsuits and reached consent de-

crees, filed the amicus briefs and obtained other critical relief in a number of cases.

We have also a robust technical assistance program that has helped millions of people understand the ADA. In a typical week through the ADA information line, we answer thousands of calls from businesses, government officials, people with disabilities and concerned citizens and [ada.gov](http://ada.gov) receives more than 1.5 million hits.

The ADA mediation program has helped resolve complaints more effectively, efficiently, and equitably. Since January 2001 we have successfully completed more than 2,000 mediations. Under Project Civic Access, we work cooperatively with local governments to identify barriers and develop plans for compliance. We have reached over 180 agreements to date.

We continue to use our regulatory authority to give full force and meaning to the ADA. In fact, the Department will soon be publishing four advance notices of proposed rulemaking seeking public comment on establishing accessibility requirements for Web sites, movie theaters, equipment and furniture, including but not limited to medical equipment, and 911 call-taking technology. As so many people have pointed out, we have, indeed, accomplished a lot, but as my former boss, Senator Kennedy often said, civil rights is the unfinished business of America and disability rights is no exception.

One of the biggest challenges we face is the unnecessary institutionalization of people with disabilities. For so many people with disabilities, as we will hear from our one witness, institutionalization deprives them of the ability to make even the most basic decisions about their lives. In 1999 the court's decision in the Olmstead case recognized that the unjustified institutionalization of people with disabilities violates the ADA. And our Olmstead enforcement has been a top priority of the division.

Over the past year, we filed briefs in cases in Connecticut, Virginia, North Carolina, Illinois, Florida, New Jersey, California, and filed lawsuits in Arkansas, Georgia and intervened in a case in New York. We have been involved in a case in Florida where we obtained a Federal ruling for a woman named Michele Haddad, a person with a disability who was living at home. And the only way she could continue to live in a home, according to the State, was to go into a nursing home and stay there for at least 60 days and then apply to go back home, that made no sense to us and fortunately that made no sense to the court.

Meanwhile, in the last 20 years, technological advances in the way we communicate, learn, play and work made life easier for a lot of people with disabilities, but new technologies have also posed significant challenges. It has been the position of the Department since the late '90's that Title III of the ADA applies to Web sites. I mentioned the notice of proposed—the input that we will be seeking on this issue, but we are not waiting for that input to enforce the ADA. We reached a settlement recently in a case involving the use of the Amazon Kindle by a number of universities, because the Kindle was not fully accessible for people with disabilities.

In addition to reaching those settlements with five universities, we worked together with the Department of Education to issue a letter to all college and university presidents nationwide asking

them to voluntarily refrain from requiring the use of any devices that are not accessible to all students.

We still confront hardened attitudes and blatant discrimination, such as an attorney who refused to allow a perspective client to bring her guide dog into his office. An RV park that refused to allow an HIV positive child of a family that was on vacation at that park to use the swimming pool and shower facilities. We have indeed made a lot of progress, but regrettably, we have a lot of work that remains ahead.

I am proud to serve with the dedicated career professionals in the Department of Justice who, in the finest tradition of Attorney General Thornburgh and all who have followed him have made enforcement of the Americans With Disabilities Act a top priority.

Thank you for your time, sir. I'm happy to answer any questions you may have, Mr. Chairman.

[The prepared statement of Mr. Perez follows:]

PREPARED STATEMENT OF THE HONORABLE THOMAS E. PEREZ



## Department of Justice

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STATEMENT OF

THOMAS E. PEREZ  
ASSISTANT ATTORNEY GENERAL

BEFORE THE

SUBCOMMITTEE ON THE CONSTITUTION, CIVIL RIGHTS, AND CIVIL LIBERTIES  
COMMITTEE ON THE JUDICIARY  
UNITED STATES HOUSE OF REPRESENTATIVES

ENTITLED

“AMERICANS WITH DISABILITIES ACT AT 20 —  
CELEBRATING OUR PROGRESS, AFFIRMING OUR COMMITMENT”

PRESENTED

JULY 22, 2010

**Statement of  
Thomas E. Perez  
Assistant Attorney General**

**Before the  
Subcommittee on the Constitution, Civil Rights, and Civil Liberties  
Committee on the Judiciary  
United States House of Representatives**

**Entitled  
“Americans with Disabilities Act at 20 —  
Celebrating Our Progress, Affirming Our Commitment”**

**Presented  
July 22, 2010**

Good afternoon, Chairman Nadler, Ranking Member Sensenbrenner, and Members of the Subcommittee.

Thank you for the opportunity to appear before you as we approach the twentieth anniversary of the Americans with Disabilities Act (ADA). I am honored to be here today with former Attorney General Thornburgh, whose tenacity, leadership, and dedication was instrumental in advancing the civil rights of people with disabilities and ultimately the passage of the ADA.

From our nation’s founding, individuals have organized to fight for their civil rights, incrementally working their way out from under the weight of immoral laws, misguided social mores, and irrational fears, facing dozens of defeats for each victory. But each victory, however small, was motivation enough to keep them moving, to continue to make the case for equal rights. And so it has been for individuals with disabilities in our nation. Individuals with disabilities faced every day the indignities of not being able to enter public buildings or get on a public bus, and they were denied job and educational opportunities — until the passage of the Americans with Disabilities Act.

As we prepare to celebrate two decades of ADA enforcement, we must salute the people of this nation who live with disabilities, as well as their advocates, people like Justin Dart, Evan Kemp, and Pat Wright, who worked tirelessly to ensure that the civil rights of people with disabilities would be both recognized and protected by our nation’s laws. We owe so much to these civil rights leaders who worked to shape not only policy, but also, and as importantly, perception.

In the two decades since its enactment, the ADA has revolutionized the way society thinks about individuals with disabilities, and it has transformed the way that people with

disabilities live in communities. The ADA has literally opened millions of doors — and opportunities — for individuals with disabilities across this nation. In communities across this country, we see people with disabilities at work, in grocery stores, in town hall meetings, at the movies, at sporting events, in restaurants and doctor's offices, or on the sidewalks simply going about their daily lives.

As the head of the Civil Rights Division, I have the distinct honor of leading enforcement of this critical law — a law that represents principles and goals no less important or far-reaching than the landmark civil rights laws of the 1960s. The Civil Rights Division has led the way for people with disabilities to live, work, and play in cities and towns across America. We have accomplished a great deal since the signing of the ADA, but we also know that we have unfinished business ahead.

#### **Civil Rights Division Enforcement of the ADA**

In the first few years after the ADA's enactment, the Civil Rights Division was successful in establishing important disability rights principles in a wide range of areas, including expanding access to the built environment, addressing HIV/AIDS discrimination, ensuring access to health care by people who are deaf or have hearing loss, and accommodating children with disabilities in child care programs.

Our settlement agreements with the Atlanta Committee on the Olympic Games ensured that sports venues being constructed for the 1996 Olympics and Paralympics were accessible to people with disabilities. This series of agreements articulated the Department's position that wheelchair seating locations must provide a line of sight to the playing field comparable to that of the other seating, and established a new benchmark — the provision of a line of sight over standing spectators, enabling those who use wheelchairs, for the first time, to continue to see the field of play even when other spectators in front of them stood up during the event. These agreements also required that non-spectator areas, including locker rooms, be fully accessible, reinforcing the concept that persons with disabilities would be active participants in sport, not just spectators. Not only are these facilities still in use today, but the principles established in these agreements have become the basis for accessible stadium design across the country.

Our participation as amicus in a private lawsuit helped to determine that individuals who have asymptomatic HIV are to be considered persons with a disability under the ADA. The case involved a dentist who had refused to provide routine oral care for a woman who had admitted that she was HIV positive, even though both the Centers for Disease Control and Prevention and the American Dental Association had clearly stated that patients with HIV infection can and should be safely treated in dental offices where universal precautions are utilized. The case was ultimately decided in the U.S. Supreme Court case of *Bragdon v. Abbott*, where the court agreed with the Department that asymptomatic HIV status met all the requirements under the statutory definition of a disability.

Another early ADA precedent came from our settlement agreement requiring all 32 acute care hospitals in Connecticut to provide sign language and oral interpreters for patients and companions who are deaf or hard of hearing. This case also established the principle that the ADA's coverage extends to "companions" who are deaf or hard of hearing — a parent, spouse or other party expected to communicate with medical staff about a patient. Subsequent settlements with Laurel Regional Hospital in Maryland and Inova Fairfax Hospital in Virginia further refined this principle and set the standards for the provision of effective communication at hospitals and doctors' offices nationwide.

Over the years, we have entered into a number of settlements with child care providers who have refused to modify policies for children with disabilities. For parents of children with disabilities, finding child care has been a daunting challenge. Child care providers routinely refused to modify policies to allow staff to assist children with disabilities in administering a finger prick test for a child with diabetes, knowing how and when to use an Epi-pen for a child with a severe food allergy, overseeing a child with asthma who uses an inhaler, or allowing a child who needs diapering because of a disability to remain with his age group rather than being relegated to remaining with much younger children who are not yet toilet-trained. In one case, a day care provider refused to modify a policy that prohibited staff from assisting children in taking their own asthma medication, thus forcing the children's parents to face a difficult choice: either go to the center to administer their child's medication themselves, risk allowing the child to go without his or her medication, find another center as a last resort, or have one of the parents quit a job to stay at home with the child. It is hard to believe how difficult it has been to get child care providers to understand and accept their obligations to provide care for children with disabilities on an equal basis with other children. Yet we continue to pursue a number of cases against those providers today.

#### **Changing Attitudes**

Changing hearts and minds and is the ultimate measure of success for civil rights laws, and the ADA is no different. In the past 20 years we have begun to see attitudes toward people with disabilities improve. But stereotypes, myths, and irrational fears still exist, resulting in continued exclusion and segregation of people with disabilities.

These irrational fears and stereotypes have resulted in continued discrimination against people with HIV and AIDS, for example. The Civil Rights Division recently settled a lawsuit involving an egregious case of discrimination against a family with a young child who is HIV positive. After several difficult months of struggling with the father's cancer diagnosis, the family booked a four-week summer vacation at a family-style RV resort in Alabama to spend quality time together while allowing the father to commute to nearby Mobile to continue his ongoing treatments. The family selected the resort because it has a three-acre lake, nature trails, gardens, an indoor pool, a gift shop, several Victorian buildings, and a Victorian steam-powered narrow gauge train that circles the resort — a perfect vacation spot for a two-year old who loves swimming and trains. On the day the family arrived, the mother casually mentioned to a staff person that their child had HIV. Later that day, the manager approached the parents, told them

that the child could not use the swimming pool or showers, and refused to accept their explanations that HIV cannot be spread in pools or showers. The family was so devastated by the manager's attitude that they checked out of the resort early the next morning. I regret that I have to report that the father passed away not long after we took his deposition. Ultimately, as a result of our lawsuit, the resort agreed to adopt non discrimination policies, provide training to its staff, and pay \$36,000 to the family and a \$10,000 civil penalty to the United States.

Individuals who use service animals also routinely face negative attitudes and a lack of understanding about how they rely on service animals to live independent lives. We recently settled a lawsuit against an attorney in Colorado who had scheduled a deposition in his offices, but then barred the woman being deposed, her husband, and her attorney from entering his offices because the woman, a veterinarian, was accompanied by her service animal that assists her with mobility and balance issues associated with a traumatic brain injury and other conditions. The attorney eventually agreed to adopt an ADA-compliant service animal policy, post the policy, undergo training himself and provide training for his staff on the ADA, and report any future allegations of discrimination to the Division. He also paid \$30,000 in compensatory damages to the complainant, \$10,000 in compensatory damages to her husband as a person associated with a person with a disability, and a \$10,000 civil penalty to the United States.

Stereotypes are at the very core of another problem we routinely encounter — exclusionary zoning and other practices that make it difficult or impossible to find appropriate locations for facilities that provide services for people with disabilities, particularly facilities for individuals with mental illness or intellectual disabilities, or for people recovering from drug or alcohol abuse. These denials are invariably based on negative public attitudes and unfounded fears that individuals who need these services will pose a threat to the neighborhood. We recently settled a case in Virginia involving a woman who has worked for many years as a one-to-one aide for children with disabilities at a local private school and who wanted to sign up with a local non-profit agency to provide foster care in her home for two adults with intellectual disabilities. The woman was told by her town that she needed a Special Use Permit, and she applied for it. But the permit was denied after a hearing at which townspeople expressed unfounded concerns about the people she would be caring for, including the fear that they might pose a danger to her neighbors. We negotiated with the Town to grant the permit, provide ADA training for the Town Manager, Town Council and members of the Town's Planning Commission, and pay \$60,000 to the complainant in compensatory damages.

It is not just old ways of thinking that need to be changed, but also old ways of doing things. The City of Philadelphia has more than 1,200 polling places, many of which have historically been located in inaccessible private residences, local stores, restaurants, and other small businesses, making it virtually impossible for voters with mobility disabilities to vote in person in their own precinct. Last year we reached a creative and forward-looking settlement agreement with Philadelphia. The City has hired an independent expert to assess the accessibility of nearly half the City's polling places and make recommendations to make them accessible, and the Division has taken up the task of evaluating the accessibility of the remaining

polling places. We have worked together to make existing polling places accessible, to make temporary modifications to inaccessible polling places so that they are accessible on Election Day, and to find alternative accessible locations for those polling places that cannot be made accessible. Accessibility is now a major criterion in the City's selection of new polling places. People with disabilities will now be able to exercise one of the most fundamental rights we have, by going to the polls and casting their votes alongside their neighbors. I believe this agreement will serve as a common-sense model for communities large and small in every corner of our country.

### **Olmstead Enforcement**

When it comes to care for many individuals with disabilities, institutionalization has long been the default choice for providing services. Yet for those individuals who could be better and more appropriately served in their communities, isolation in an institutional setting deprives them of the ability to make even the most basic decisions about their lives — simple decisions you and I make every day, such as when and what to eat, when to use the restroom, when to go to bed, and when and how often to visit with family members. Institutional isolation denies these individuals access to all of the work, recreation, and community opportunities people without disabilities take for granted.

In 1999, the Supreme Court's decision in *Olmstead v. L.C.* recognized that the unjustified isolation of individuals with disabilities in institutional settings violates the ADA. *Olmstead* established that Title II of the ADA requires that people with disabilities must be offered the opportunity to receive services in their communities when appropriate, and that it is an independent violation of the law to unnecessarily segregate them from society. Many in the disability rights community view the *Olmstead* decision as their own *Brown v. Board of Education*.

Yet ten years after the landmark decision, tens of thousands of Americans with disabilities are still unnecessarily and unconstitutionally confined in institutions, some with unspeakably dangerous conditions. That's why last year, President Obama marked *Olmstead*'s 10th anniversary by proclaiming the Year of Community Living. Under his leadership, the Division has made it a priority to enforce the integration mandate of the ADA, one of the biggest challenges remaining as we prepare to celebrate the 20<sup>th</sup> anniversary.

We have filed lawsuits against the States of Georgia, Arkansas, and New York and participated in additional lawsuits against the States of Connecticut and Illinois, challenging their failure to provide community-based services, which forces people with disabilities to live in institutions rather than in their communities with appropriate supports. We also supported challenges to North Carolina and California decisions to alter the way these states administer services to people who have been living in the community for many years with appropriate supports but who now, after the changes, will face the risk of institutionalization.

It is shocking and frustrating, 11 years after *Olmstead*, to see bureaucratic decisions that continue to ignore the rights of people with disabilities. Take the case of Michele Haddad. She was riding her motorcycle when she was hit by a drunk driver in September of 2007, resulting in quadriplegia. Ms. Haddad, the mother of two grown sons, was able to return home following months of hospital and rehabilitation stays, but needed help with her basic daily activities, including bathing, dressing, eating, and toileting. With the daily assistance of her family, she was able to stay in her Jacksonville, Florida, home, in the community she loved, until a change in her family situation occurred this past March. Her son, who recently graduated from college, pitched in and assisted her with these very personal daily care needs, but he does not live in the area and will need to return home soon. When Ms. Haddad notified the State that she would need community-based services to fill this void, she was told that she would have to enter a nursing home for 60 days before she would be eligible to receive service in the community, even though she had applied for services and had been on the waiting list since 2007. The Division joined in her case, arguing for a preliminary injunction requiring the state to provide services for Ms. Haddad while her case is pending, and I am happy to report that the court agreed. But this should not be the way America does business. We have made progress since *Olmstead*, but there are still too many people like Michelle Haddad in too many institutions living away from their homes, families, and friends through absolutely no fault of their own. We will continue to push forward with aggressive enforcement on this front.

#### **Education, Voluntary Compliance and Mediation**

Enforcing the ADA is, at the very least, a full-time task. The Division has responsibility for ensuring the accessibility of programs and services of more than 80,000 units of state and local governments and well over seven million businesses. From the very beginning of the Division's enforcement program, we have understood that the key to making America accessible was encouraging voluntary compliance, choosing whenever possible to achieve compliance cooperatively, without the cost and hostility of litigation. We firmly believe that if covered entities understand the law's requirements, then they are more likely to take affirmative steps to comply. We also believe when people with disabilities understand the ADA, they become better advocates and effect change within their own communities, whether it is their local government or a downtown restaurant.

Project Civic Access is one example of our cooperative approach. Under this initiative, we reach out to towns and cities and conduct compliance reviews cooperatively with local governments, working together to identify barriers and develop plans for bringing programs and activities into compliance with the ADA. We have reached 180 agreements to date with local governments in all 50 states and the District of Columbia. These agreements address all aspects of civic life, including courthouses, libraries, parks, theaters and stadiums, and emergency shelters, as well as voting, emergency preparedness, emergency shelters, website access, and effective communication in law enforcement and 9-1-1 services. This initiative has improved the lives of millions of people with disabilities in communities throughout the country.

The framers of the ADA were wise in requiring each Federal agency with enforcement responsibility to undertake a concomitant responsibility — the provision of technical assistance to let covered entities understand their responsibilities and to let persons with disabilities understand their rights. We have taken this challenge very seriously. The Department's unparalleled ADA Technical Assistance Program has, since 1990, helped millions of people understand the ADA and how it applies to their specific situation. The highly utilized ADA Information Line and ADA website serve as the primary points of contact by the nation's public who turn frequently to the Department for accurate and timely information about complying with the ADA. In a typical week we answer 1,000 calls from businesses, government officials, persons with disabilities, and concerned citizens, and every week [www.ada.gov](http://www.ada.gov) receives more than 1.5 million hits. We reach out to and conduct training on the ADA for thousands of people every year at national and regional conferences, and even answer questions at state fairs. We have developed more than 100 publications and videos to explain specific provisions of the ADA. Most recently, we created a 17 minute video to dispel myths and educate employers about employing people with disabilities, published a document specifically for returning service members with disabilities to help them understand their rights under the ADA and where to turn for additional information and assistance, and soon we will jointly publish with the Department of Health and Human Services guidance on accessible medical equipment.

Finally, our ADA Mediation Program has helped the Civil Rights Division resolve ADA complaints more effectively, efficiently, and equitably, using a voluntary alternative dispute resolution approach. Since January 2001, we have successfully completed more than 2,000 mediations. Carried out through a partnership between the Federal government and the private sector, the program has greatly expanded the reach of the ADA and the speed with which violations are resolved at minimum expense to the government. The program also empowers people with disabilities who participate in mediation. Unlike traditional enforcement methods, mediation places responsibility squarely on the shoulders of both parties who, with the help of one of the program's 400 professional mediators, determine both the process and the outcome of the mediation. This cooperative approach preserves, rather than severs, the relationship between the parties, which is especially important for individuals in rural areas who have few options for carrying out business, leisure, or government activities.

#### **Emerging Issues and Challenges**

Ensuring the civil rights of people with disabilities requires the ability to respond and adapt to change, and to focus on the novel issues of today and tomorrow. In the 20 years since the ADA was passed, technology has vastly changed the way we live our daily lives. Technological advances in the ways we communicate, learn, play and work have made life easier for all of us, including people with disabilities.

But new technologies can also pose significant challenges, and we must remain vigilant to ensure that as new devices are introduced, people with disabilities are not left behind. The rapid development of new technologies has made our lives more efficient, but many of these technologies from Web sites to cell phones, from ticket kiosks to e-books, remain either in whole

or in part inaccessible to people with disabilities, particularly those who are blind or have low vision, those with limited manual dexterity, and those who are deaf or hard of hearing.

We acted swiftly to respond to complaints we received about the use of the Amazon Kindle, an electronic book reader at several universities, and reached agreements with four universities participating in a pilot project to test the viability of using the Kindle DX in a classroom setting. These universities agreed not to purchase, recommend, or promote use of this or other electronic book readers unless the devices are fully accessible for students who are blind or have low vision or the universities provide a reasonable modification that ensures that blind individuals may access and acquire the same information, engage in the same interactions, and enjoy the same services as sighted students with substantially equivalent ease of use. Although the Kindle DX has a text-to-speech function for reading a book's content, the menu and navigation controls do not have this function, making it impossible for students who are blind to know which book they have selected or how to access the web browser and other functions. Last month, the Department of Education's Assistant Secretary for Civil Rights, Russlynn Ali, and I issued a letter to college and university presidents nationwide asking them to voluntarily ensure that their schools refrain from requiring the use of any devices that are not accessible to students who are blind or have low vision.

Meanwhile, the Department of Justice will soon publish new ADA Standards for Accessible Design, which we are updating to be more consistent with model building codes and industry standards in order to make compliance easier. The new Standards are consistent with guidelines issued previously by the Access Board, and which have been adopted by certain model building codes and industry standards. The new Standards will also cover certain types of facilities not currently covered, including swimming pools, playgrounds, and other recreational facilities, judicial facilities, and prisons. We also plan to issue new regulations for Title II and Title III of the ADA to clarify and refine many issues that have been raised over the past 20 years and to address new issues that have been raised since the original regulations were published in 1992.

We are also moving forward to issue advance notices of proposed rule-making, seeking public comment on four important issues:

- The captioning and video description of movies
- The provision of accessible equipment, including the provision of accessible medical equipment
- Making websites accessible for persons who are blind or have low vision, and
- How state and local government emergency call centers should address the use of 9-1-1 calls from voice, text, or video technologies, called Next Generation 9-1-1.

#### **Looking Forward**

As we celebrate the 20<sup>th</sup> Anniversary of the ADA, it is fitting that we take time to recognize the remarkable progress we have made in two decades. But no matter how vigorously

we enforce the law, we still face the challenge of attitudes and stereotypes that stigmatize disabilities; we still find buildings with barriers, city sidewalks without curb ramps, and local hospitals with no sign language interpreters to serve their patients who are deaf. We cannot forget that we still have unfinished business.

We see this unfinished business when the Civil Rights Division has to enforce the right of a family with an HIV positive child because the owner of an RV resort tells them that their two-year-old can't swim in the swimming pool. We see this unfinished business when we have to bring a case against an attorney who refuses to allow a woman with a service dog into his office. We see it when we must file a lawsuit to protect the rights of people with disabilities who are institutionalized because there are no community-based services in their own communities. And we see this unfinished business when we have to fight for the right of a social worker who is deaf to be hired doing a job for which she is eminently qualified because the government employer doesn't want to accommodate her with a part-time interpreter.

We should be proud of the progress made under the ADA, but we must now turn our attention to the next 20 years so that we can continue to create a nation where every individual has access to equal opportunity and equal justice, and where the promise of a future when people with disabilities participate in an American society as full and equal partners becomes a reality. We in the Civil Rights Division embrace this challenge and look forward, with great anticipation, to the next two decades.

Thank you and I look forward to responding to any questions that the Subcommittee Members may have.

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Mr. NADLER. I thank our witness and will begin the questioning by recognizing myself for 5 minutes.

You said the Department will soon issue regulations for Title II and III to address new issues that have come up since regulations were last published in 1992. We pressured deputy Mr. Bagenstos on this issue in our April hearing, so this is welcome news. Can you give us more detail on your current timeline on issuing those upcoming regulations, and include clarification and confirmation of

the Department's long-standing position on the Title III of the ADA applies to Web sites? I think you just implied that by talking about Kindles.

Mr. PEREZ. I just mentioned that. And again, we will very soon be issuing the four advanced notices of proposed rulemaking, and those, again, apply to the issues of accessible—accessibility requirements for Web sites, captioning in movie theaters, equipment and furniture. We've heard a lot about accessibility of medical requirement, health reform is a key development, but if a person with a disability can't access the doctor's office or access the medical equipment, then having insurance is Pyrrhic. And so we're asking about that.

And then also 911, the next generation 911 call-taking technology. And so we're soliciting public input on all of those areas. We're also, as you correctly point out, and I hope that we can complete this work in the very near future on the broader Title II, Title III, all the disability regs that you had mentioned and Mr. Bagenstos mentioned. And I can assure you that I have people behind me that have been working feverishly and many more who can't be here because they continue to work feverishly because we recognize the critical importance of this issue.

Mr. NADLER. I appreciate that. Now, in addition to Web sites, you mentioned other technologies in your statement including E-readers, ticket kiosks, cell phones. I assume those will also be covered.

Mr. PEREZ. Yes, we are looking at all those issues. Technology should be the best friend of a person with disabilities.

Mr. NADLER. Well, that answers my next question, I think. Will the guidance be sufficiently forward looking to provide some guidance if technologies continue to evolve.

Mr. PEREZ. We sure hope so, and that's where we're looking for the public to comment on. We certainly want to make these regulations enduring documents that can survive the evolution of technologies.

Mr. NADLER. So you want to broaden the scope to ensure you're not lagging behind this technology.

Mr. PEREZ. I would agree.

Mr. NADLER. During a Senate HELP Committee hearing on Olmstead in June, where you also testified, another witness Robert Bernstein, president and director of the Bazelon Center here in Washington, testified that, and I'll quote, "positive outcomes in support of housing can be achieved at a cost lower than or, at most, equal to institutional care." Do you agree with that, I assume?

Mr. PEREZ. I do. And the Olmstead decision, as I said, giving meaning to that is a critical priority. I personally met with the governor of Georgia to talk about Georgia's compliance, and we have a lawsuit pending against Georgia. I hope we can resolve it and create a template for the work elsewhere. Creating sustainable housing is a critical component because as you move people in the communities, you have to have the community infrastructure.

Mr. NADLER. You might consider meeting with the Mayor of New York because we have a case in front of Judge Garaufis and the Mayor and some others seem to be resistant to his conclusion on this.

Mr. PEREZ. We have a full docket of cases, Mr. Chairman, in front of Judge Garaufis, including the Fire Department of New York City and the case that you mentioned.

Mr. NADLER. In many of the Olmstead enforcement cases, the Department participates as amicus or intervenes in existing suits that have been brought by protection advocacy agencies. That is to say, the Congressionally-created disability rights agencies that represent and advocate for people with disabilities in each State. It appears that the P&A system is critical part of the ADA enforcement scheme. Would you agree with that, and how well do you think it is working?

Mr. PEREZ. I absolutely agree with that. And when you look at the cases that we're doing across the country, Georgia, for instance, we would not be able to be where we are without the help of the P&As. And in fact, in the Connecticut brief that we filed a while back, the issue was standing for the P&A, and so we have recognized that P&As must serve the role in many cases of that private Attorney General and that is why I wholeheartedly concur with your statement.

Mr. NADLER. Thank you and lastly with regard to the P&As Olmstead enforcement work, are those often class action suits? Class action—do you think that these class action suits are an effective way to bring these cases, and is there anything about how such cases are being brought that you could recommend needing change?

Mr. PEREZ. We have been using a number of tools in our law enforcement arsenal to address the Olmstead issue. Some of the cases have been individual, some have been institution wide. And right now, I feel like we've been well equipped to address the Olmstead issues, except that they exist in so many States across the country. So we have a great volume of work, and will continue to put as many resources as we can to bear on this.

Mr. NADLER. Thank you very much, my time has expired, I now recognize the distinguished Chairman of the full Committee for 5 minutes.

Mr. CONYERS. The gentleman from—thank you very much. We appreciate all your hard work. You sent me this process and procedure for beginning the regulatory process to get the law in motion. As we all know, the law can't become effective until the regulations are created for it to guide all that are involved. Could you go through that for me, what you sent me?

Mr. PEREZ. Sure. I sent you a list that had paragraphs on it. The first 2 paragraphs, this is basically a to-do list in the ADA regulatory front. And the first two items, final rules implementing Title II of the Americans With Disabilities Act, that applies to State and local governments. Final rules implementing Title III of the ADA, that's the public accommodations piece. And as I mentioned, Mr. Chairman, we are feverishly working on those and hope to complete them as soon as possible.

The final three on that list, are the ANPRMs on the issue of Internet accessibility. If you're applying for a job these days and most places, people apply online, and if you're a person with a disability and the Web site isn't accessible, it's hard to get that job and that is perhaps one explanation—

Mr. CONYERS. Define ANPRM.

Mr. PEREZ. The ANPRM is an acronym that basically, it's an advanced notice of proposed rulemaking and what we're seeking is public input in the case of the accessible Web sites. What people in the general public think about how Web sites should be regulated, and that will inform our judgment in putting forth a notice of proposed rulemaking. And so when you put out the advance notice of proposed rule making, it ensures that the notice of proposed rule making that comes out later is more fully informed.

Mr. CONYERS. We wanted you to talk about the, finally, the challenges of Title II and Title III, how the governments would be involved in II, and how public accommodations would be involved in III.

Mr. PEREZ. Well, we continue—the challenges in Title II include the fact that there are so many States where we have seen people with disabilities who are unnecessarily institutionalized, and that's why to get back to Chairman Nadler's question about the role of P&As, we have these challenges across the country. And so the volume of work is remarkable. In so many—yes, sir.

Mr. CONYERS. You know what you're saying is that there are so many seniors that are warehoused in institutions at the State and local level, right?

Mr. PEREZ. Well, I'm actually saying that there are people of all ages that are unnecessarily institutionalized. The Georgia case for instance, there was a 14-year-old girl who had a psychiatric issue, she could have lived in the community, but because of the absence of a community infrastructure, she was in an institution. They didn't know how to treat her properly. And so one of the side effects of her medication was it made her constipated, and because she wasn't treated properly she quite literally, her bowels imploded and she died. She did not have to die, Mr. Chairman, but she did.

And that is an example of what happens when we have situations like this. So Olmstead, as you will see from talking to one of the witnesses who will be here, is about real people who are overcoming barriers, but then real people who have frankly unnecessarily lost their lives.

Mr. CONYERS. So there is a continuing problem of old people and the wrong people being institutionalized and we're trying to get at it through Title II.

Mr. PEREZ. Yes, we are, that's one mechanism that is being used. We are also working very closely with our colleagues at the Department of Health and Human Services to use the Medicaid program and to use other funding streams so that we can promote care and treatment in community-based settings instead of institutional settings. I testified recently with a Senate Committee with my colleague Cindy Mann from the Department of Health and Human Services, so money is a great point of leverage.

Mr. CONYERS. Some of us are thinking about approaching Chairman Nadler about a hearing on this area of the disability laws because we need to shine a spotlight on it and maybe we will do that.

I understand the need to seek additional input, but can you make sure that the basic legal principle that Title II and III require accessible technology like Web sites is issued, maybe even sooner than most of the regs.

Mr. PEREZ. We're working very hard on all of these, and I agree with you that accessible technologies is critical. And so we're working on multiple fronts on the advanced notice of proposed rule-making that I discussed. But then on the actual cases that we're working on where we already have a jurisdictional hook like the Kindle cases, we're working very hard on those as well.

Mr. CONYERS. Thank you, Mr. Chairman.

Mr. NADLER. Thank you. I think we may be able to get one more question in before we recess for votes. I will now recognize the gentleman from North Carolina.

Mr. WATT. Thank you, Mr. Chairman. In the unlikely event that we might be able to excuse Mr. Perez before the next vote, I will be very short. I just want to make a comment about having been across the hall at a hearing about unemployment and how we address that. I was about to miss this hearing and how delighted I am that I came in to hear the testimony of Steny Hoyer—as least the end of the testimony of Steny Hoyer and our colleague, Jim Langevin, and how inspiring that has been.

So I am fully supportive, and it sounds like the Department of Justice has its hands full doing this work.

And, with that, I will yield back the balance of my time.

Mr. NADLER. I thank the gentleman.

The gentleman from Virginia is recognized.

Mr. SCOTT. Thank you, Mr. Chairman.

And thank you, Mr. Perez, for being with us today.

When we passed the bill in Virginia, one of the constant refrains was the question of what is a reasonable accommodation. Do you have complaints over that question, whether a requested accommodation is reasonable or not?

Mr. PEREZ. That is an issue that continues to get litigated, and it is very fact-specific.

Mr. SCOTT. What kind of expenses do you impose on people under the idea of being reasonable?

Mr. PEREZ. Well, again, it is difficult to give a one-size-fits-all answer to that question. There are certainly expenses that can be imposed, and the determination a court has to make is whether the expense becomes so prohibitively expensive as to constitute fundamental alteration of the program. And those cases are always, you know, very much fact-specific. And we obviously have had a lot of success in terms of making entire communities accessible through our projects, civic access, and other programs.

Mr. SCOTT. Many facilities are grandfathered because they were built before 1990. Are we having problems with the fact that they are not compliant?

Mr. PEREZ. We sometimes have challenges in communities that have those older structures. And we have worked very hard. I mentioned the technical assistance that we provide. It has been our experience, quite frequently, that communities want to come into compliance even if there may not be a statutory mandate.

And so, we have architects that are actually on staff in our Disability Rights Section. And so, they are put to robust use in a host of circumstances: Stadiums come to mind, a lot of stadiums that were constructed long ago, things of that nature.

Mr. SCOTT. Does the Department charge for that advice?

Mr. PEREZ. I would have to look into that. I don't know the answer to that, sir.

Mr. SCOTT. In terms of employment discrimination and enforcement of discrimination, are you enforcing religious discrimination, as well? For example, are we still allowing Federal contractors to practice religious discrimination if they call themselves faith-based?

Mr. PEREZ. Well, we have a number of cases involving—there is a transit administration—it is not an ADA case, but I think it was in New York, involving discrimination against people who wear a headscarf in the workplace.

We had a case recently in Oregon where we worked with the State of Oregon. They had a law on the books that had been a long-standing law that discriminated against religious minorities in the school context. We worked to get that repealed.

And we will continue to work on those issues as the facts present.

Mr. SCOTT. And is it the policy of this Administration to allow discrimination based on religion by people who are using Federal money?

Mr. PEREZ. No, it is not, sir.

Mr. SCOTT. Can faith-based organizations running Federal programs discriminate based on religion?

Mr. PEREZ. Those issues have been the subject of a lot of review, and it is my understanding that those continue to be under review at the White House and with all of the affected agencies.

And so I would prefer to get back to you with a precise answer to that question, because I know there has been fairly robust dialogue in that area across government because a number of questions have been raised in that area.

Mr. SCOTT. You are the Assistant Attorney General for Civil Rights?

Mr. PEREZ. That is correct, sir. And there are a number of other entities that are involved in the implementation of these laws throughout various agencies.

Mr. SCOTT. Is it possible for a faith-based organization running a Federal program to discriminate solely on the basis of religion? That is, to have a policy that, say, we don't hire Catholics and Jews. I mean, is that possible?

Mr. PEREZ. Again, as I think I mentioned, the Department continues to be committed to ensuring that we partner with faith-based organizations in a manner that is, indeed, consistent with our laws. And we, as I said, have a robust process of evaluation under way to address the issues that are the subject of your questioning.

Mr. SCOTT. Is that a "yes" or a "no"?

Mr. PEREZ. Again, we continue to be committed—

Mr. SCOTT. What is the prohibition against a faith-based organization practicing religious discrimination in employment with Federal money?

Mr. PEREZ. Well, again, sir, I am happy to convene the appropriate people in the Federal Government who have been spearheading this issue to sit down and discuss the concerns that you have.

And, again, we remain committed to ensuring that we partner with faith-based organizations in a manner that is consistent with all of our laws.

Mr. SCOTT. You can't give a "yes" answer, that this Administration allows the discrimination or doesn't allow the discrimination?

Mr. PEREZ. Again, sir, we are committed to rooting out discrimination, and we are committed to ensuring that we partner with faith-based organizations—

Mr. NADLER. The—

Mr. PEREZ [continuing]. In a manner that is, indeed, consistent with our laws.

Mr. SCOTT. I think the Chairman is rescuing you from this line of questioning.

Mr. NADLER. I am, indeed. The time of the gentleman has expired, and we have very little time right now.

The gentleman from Arizona.

Mr. FRANKS. Mr. Chairman, there is some bipartisanship here today, and I want to try to keep it. I don't often quote Democrats, but there was a famous Democrat by the name of Hubert Humphrey, who once said that, "Society is measured by how it treats those in the dawn of life, those in the shadows of life, and those in the twilight of life." And I think there is some effort being made today to try to help those in the shadows of life, and I commend it.

And I want to especially express my appreciation to Mr. Sensenbrenner for his commitment in this area. I know there are a lot of areas of potential disagreement.

I was struck by the fact that, in your last discussion there, that it sounded like you were suggesting that there might be some change in policy in this Administration, as opposed to the last Administration, related to religious groups being able to hire on religious grounds. I think that is what my colleague was trying to get at.

And, as I understand, there is not a change in policy because of the longstanding realization that, to suggest that religious organizations like churches couldn't hire—you know, that a Jewish synagogue had to hire a Baptist rectory or something like that, would be sort of ridiculous. And I am hoping that we haven't changed the policy and that we continue to recognize religious freedom in that regard, to be able to hire based on a religious basis.

And I commend your efforts to repeal any law that would say that someone couldn't wear a scarf of a Muslim perspective. Religious freedom is at the core of all of our other freedoms.

And, with that, Mr. Chairman, I will yield back.

Mr. NADLER. I thank the gentleman for yielding back.

We now have 54 seconds, but 346 people haven't voted yet, so it is not that dire.

We have two votes on the floor. After this vote, there is a 5-minute vote. We will recess the hearing and reconvene as soon as those two votes are finished.

I thank Mr. Perez and excuse him.

And while we are gone, I hope our next panel—which is to say, Attorney General Thornburgh—will take a seat at the table.

The hearing is recessed until the conclusion of these votes.

Mr. PEREZ. Thank you, Mr. Chairman.

[Recess.]

Mr. NADLER. We will now proceed with our third panel. The witness has just taken his place. In the interest of time, I will now introduce him.

Richard Thornburgh is currently counsel to the international law firm of K&L Gates LLP in its Washington, D.C., office. He previously served as Governor of Pennsylvania, Attorney General of the United States under Presidents Reagan and George H.W. Bush, and Under Secretary General of the United Nations.

As Attorney General, Mr. Thornburgh played a leading role in the enactment of the Americans with Disabilities Act and its implementation. And as the parent of a son with physical and intellectual disabilities, he has taken a special interest in the needs of people with disabilities.

In 2002, he received the Wiley Branton Award of the Washington Lawyers' Committee for Civil Rights and Urban Affairs in recognition of his commitment to the civil rights of people with disabilities.

Mr. Thornburgh was educated at Yale, where he obtained an engineering degree, and at the University of Pittsburgh Law School.

Before I turn the microphone over to Attorney General Thornburgh, I would also like to recognize former Attorney General Janet Reno, who sends her regrets that she is not able to join us today.

Under Attorney General Reno's stewardship, the Department of Justice set a standard for the vigorous and appropriate enforcement of the ADA that has continued to this day. While we miss having her with us to celebrate this 20th anniversary, we thank her for the key role that she has played in creating a legacy of equality and justice for people with disabilities.

Now I am pleased to welcome you, Attorney General Thornburgh. Your written statement will be made part of the record in its entirety. I would ask you to summarize your testimony in 5 minutes or less.

Before we begin, it is customary for the Committee to swear in its witnesses.

[Witness sworn.]

Mr. NADLER. Let the record reflect the witness answered in the affirmative.

I now recognize you for your statement.

#### **TESTIMONY OF THE HONORABLE RICHARD THORNBURGH**

Mr. THORNBURGH. Thank you, Chairman Nadler—and I also extend my thanks to Ranking Member Sensenbrenner, and ask that you convey my best wishes to Chairman Conyers, a long-time friend and sometime adversary over the years—to have the opportunity to be with you today to reflect on the 20th anniversary of the signing into law of the Americans with Disabilities Act.

You will forgive me, I trust, if I share with you today some of my own experiences and views, both professional and personal, as a long-time advocate for disability rights. In particular, I want to focus on the role played in my life by the ADA, the most important civil rights legislation passed since the 1960's.

Let me begin with a story. As some of you may know, on July 1, 1960, 50 years ago, our son Peter, then an infant only 4 months old, was involved in a dreadful automobile accident that took the life of his mother, my first wife.

For a considerable period of time thereafter, Peter's life was very much in doubt. He had suffered multiple skull fractures and extensive brain damage that were to result in severe physical and intellectual disability. After 6 months of intensive hospital care under the loving supervision of the Sisters of Mercy in our hometown of Pittsburgh, Pennsylvania, Peter returned home just before Christmas, and we began life anew.

After spending 3 years as a single parent to Peter and his two older brothers, I was blessed to meet Ginny Judson, a 23-year-old schoolteacher. And we were married 46 years ago and, in 1966, added a fourth son to our family.

She is today the director of the Interfaith Initiative at the American Association of People with Disabilities here in Washington, helping religious congregations of all faiths to identify and remove barriers to worship for people with all types of disabilities.

But her most important advocacy was and is on behalf of our son Peter. Peter Thornburgh today, although still very limited, lives semi-independently in a supervised apartment near Harrisburg, Pennsylvania. He works as a volunteer in the local food bank, where, in his words, he "helps poor people." He has his own circle of friends and is welcomed by his church and in many other community activities. We have been proud to share Peter's journey with him.

As good fortune would have it, I have also been blessed with opportunities to apply lessons learned from being Peter's dad in public life, as well, most notably as Attorney General of the United States in the Cabinet of President George H.W. Bush, where I served as the point man in the effort to obtain congressional passage of the ADA.

The ADA, as has been noted, developed bipartisan support in the Congress under pressure from the disability community, in cooperation with parents, professionals, and providers, who saw the need to extend the protection of civil rights laws to those with disabilities. The bill was not a quota bill, not one designed to give special preference or set-asides to persons with disabilities, but was fashioned to empower them to participate in the mainstream of American life.

As I noted when I testified on behalf of the Bush administration before this Committee on October 12, 1989, the ADA is fair, balanced legislation. It ensures that persons with disabilities in this country enjoy access to the mainstream of American life. It builds on an extensive body of statutes, case law, and regulations to avoid unnecessary confusion. It allows maximum flexibility for compliance, and it does not place undue burdens on Americans who must comply.

On July 26, 1990, the ADA was signed into law by President Bush on a glorious summer day in a ceremony held on the south lawn of the White House. Some 3,000 persons, with and without disabilities, and their family members looked on and cheered and

cheered as President Bush called to let the shameful wall of exclusion finally come tumbling down.

After 20 years of the ADA, we see significant changes, as the Chairman and the majority leader have noted. We see new designated parking spaces at the local convenience store, a ramp at the neighborhood movie theater, a sign language interpreter at public gatherings, Braille on the ATM machines or the elevators of the local hotel, and, most of all, persons with disabilities gaining more access to community living and to employment, although clearly not yet in the numbers we would like to see.

Employment, in particular, is problematical, as there has been no net increase in the percentage of Americans with disabilities employed in the past 20 years.

The ADA has been good for people with disabilities, but, more important, it has been good for America, helping to fulfill the promise inherent in our democratic ideals.

Yes, progress is being made, but it is no time to rest on our laurels or to savor our accomplishments. Important issues remain unresolved, as the ADA has moved from public debate in legislative halls all of the way to the United States Supreme Court.

Increasingly, our courts have been called upon to decide a number of issues arising from passage of the ADA. While the results have been mixed, Supreme Court cases such as *Olmstead and Lane v. Tennessee*, in each of which I was proud to file a friend of the court brief, have buttressed the right of people with disabilities to participate more fully in the mainstream of American life.

And remedial legislative action has been undertaken, most notably in the ADA Amendments Act of 2009, to cure some of the anomalies arising from adverse court decisions in the field of employment law.

In closing, Mr. Chairman, I must tell you that when I look back on all that has been accomplished through the passage of the ADA and other laws that date all of the way back to section 504 of the Rehabilitation Act of 1973, I quickly come to realize that none of these statutes were on the books in 1960 when our beloved son Peter was so seriously injured. It is only during his lifetime that we have taken these giant steps forward.

On behalf of all of the Peter Thornburghs of our Nation and their families and loved ones, I extend to you our heartfelt thanks and congratulations for your willingness to fight for their dignity and respect.

We wish this Congress Godspeed in further endeavors, including the ratification in the Senate of the United Nations convention on disability rights. And we pay tribute to this landmark effort, this ADA, which empowers all people to live as they choose in their communities. What a magnificent way to celebrate human dignity, is the anniversary—20th anniversary—of the ADA.

And I thank you, Mr. Chairman.

[The prepared statement of Mr. Thornburgh follows:]

PREPARED STATEMENT OF THE HONORABLE RICHARD THORNBURG

Testimony on the Occasion of the 20<sup>th</sup> Anniversary of the Signing of the  
Americans with Disabilities Act

By

Dick Thornburgh  
Counsel, K&L Gates LLP  
Former Governor of Pennsylvania  
Former Attorney General of the United States

Before the United States House of Representatives  
Committee on the Judiciary  
Subcommittee on the Constitution, Civil Rights and Civil Liberties  
Room 2141  
Rayburn House Office Building  
Washington, D.C.

Thursday, July 22, 2010  
2:00 P.M.

Chairman Nadler, Ranking Member Sensenbrenner, and members of the Subcommittee: Thank you for the opportunity to join you today to reflect on the first two decades of implementation and enforcement of the Americans with Disabilities Act (ADA). As you know, next Monday we will celebrate the 20<sup>th</sup> anniversary of the signing into law of the ADA, a landmark civil rights law and a declaration of independence for some 50 million Americans with physical, sensory, psychiatric and intellectual disabilities.

Today I want to share with you some of my experiences and views, both personal and professional, as a long-time advocate for disability rights. In particular, I will focus on the role played in my life by the ADA, the most important civil rights legislation passed into law since the 1960s.

I.

Let me begin with a story. As some of you may know, on July 1, 1960, fifty years ago, our son Peter, then an infant only four months old, was involved in a terrible automobile accident that took the life of his mother, my first wife. For a considerable period of time thereafter Peter's very survival was in doubt. He had suffered multiple skull fractures and extensive brain damage that were to result in severe intellectual disability.

After six months of intensive hospital care under the loving supervision of the Sisters of Mercy in our home town of Pittsburgh, during which time he was actually baptized with tubes running in and out of his tiny body, Peter returned home just before Christmas and we began life anew.

After spending three years as a single parent to Peter and his two older brothers, I was blessed to meet Ginny Judson, a 23-year old schoolteacher, and we were married forty-six years

ago. In 1966, Ginny and I added a fourth son to our marriage. She has been a model mom to our family and now a super "Granny" to six wonderful grandchildren as well.

Inspired by Peter, Ginny became an effective advocate for people with disabilities at the local, state and national level, serving as President of our local ARC (now ACHIEVA) and as a member of the President's Committee on Mental Retardation (now the President's Committee on People with Intellectual Disabilities). She is today the Director of the Interfaith Initiative at the American Association of People with Disabilities here in Washington, helping religious congregations of all faiths to identify and remove barriers to worship for persons with all types of disabilities. But her most important advocacy was and is on behalf of our son Peter.

Peter Thornburgh today, although still very limited, lives semi-independently in a supervised apartment near Harrisburg, Pennsylvania. He works as a volunteer in the local food bank where, in his words, he "help[s] poor people." He has his own circle of friends and is welcomed by his church and in many other community activities.

Peter turned 30 the year the ADA was signed into law and this year he turned 50. In the last six years, Peter achieved two significant milestones that I would like to share with you. In 2004, Peter was confirmed as a member of the Chestnut Grove United Methodist Church. The Rev. David Miller met with Peter five times to explain what church membership means and to help him write, in Peter's own words, his Confession of Faith. Standing in front of his congregation, Peter enunciated the following Confession of Faith: "My name is Peter Thornburgh. I am an American. I am happy in my church and I am happy to have Jesus in my heart."

More recently, in April of last year, Peter received the "Essence of Humanity Award" from the United Way of the Capital Region - Pennsylvania. He was nominated by the Ronald

McDonald House of Hershey. Peter has collected thousands upon thousands of aluminum pop tabs from friends and relatives across the nation which he then gives to the Ronald McDonald House to recycle for cash. The beginning of his award statement reads:

"Peter Thornburgh exemplifies the basic qualities we all should possess if we are to be fully human. When life presents a difficult road to follow, the way in which you travel it mirrors your inner strength and beauty. Peter has overcome enormous difficulties with determination, caring and a good-natured attitude."

What an inspiration Peter has been for all of us who have shared his journey!

What lessons have Ginny and I learned from these experiences with our son?

1. To focus on the abilities, not the disabilities, of all individuals.
2. To seek to maximize the opportunities for inclusion of persons with disabilities in the mainstream of our communities.
3. To embrace all such persons within family and community. This is something that works both ways. Our family has gained as much, if not more, from Peter as he has gained from us.
4. To recognize that disability is part of the very fabric of life, simply one more of life's challenges to be met. And certainly nothing of which to be ashamed.
5. To celebrate the work of those who train, educate and advocate for people with disabilities and of parents, family members and friends who partner in such efforts.

## II.

As good fortune would have it, I have also been blessed with opportunities to apply these lessons in public life as well.

In 1978, I ran successfully for governor of Pennsylvania and served two four-year terms in that office. Peter, it turned out, was a fine campaigner and a frequent participant in official activities when I was elected. Our feeling was one of pride in his accomplishments, not of reluctance to share his shortcomings. Everyone in Pennsylvania knew that the governor had a son with a serious disability and this helped to give heart to many in similar situations across the state.

During the 1980s, when I served as governor, we put an emphasis on providing community-based services for children and adults with disabilities as an alternative to large and isolated institutional settings. We emphasized “mainstreaming” for all persons with disabilities. We promoted independent living and supported employment opportunities to help provide the dignity and financial independence that can only come from a job. And we created a respite-care program to provide some “breathing room” for devoted parents and other caregivers.

Later, when I served in Washington, D.C. as Attorney General of the United States in the cabinets of Presidents Reagan and George H. W. Bush, once again good fortune smiled upon me. One of my principal tasks for President Bush was to spearhead the effort to obtain congressional passage of the ADA. As you know, the law was designed to end discrimination against persons with disabilities and to remove barriers to:

- employment
- public services
- public accommodations

- transportation, and
- communications facilities

The ADA developed bi-partisan support in the congress under pressure from the disability community in cooperation with parents, professionals and providers who saw the need to extend the protection of civil rights laws to those with disabilities. The bill was not a “quota” bill, one designed to give special preference or “set-asides” to persons with disabilities, but was fashioned to empower them to participate in the mainstream of American life.

As I noted when I testified on behalf of the Bush Administration before this Committee on October 12, 1989, the ADA:

“is fair, balanced legislation. It ... ensure[s] that persons with disabilities in this country enjoy access to the mainstream of American life. It builds on an extensive body of statutes, case law, and regulations to avoid unnecessary confusion; it allows maximum flexibility for compliance; and it does not place undue burdens on Americans who must comply.”

I concluded that testimony with an observation in which I continue to believe, and that two decades of enforcement and implementation of the ADA have borne out:

“[P]ersons with disabilities are all too often not allowed to participate because of stereotypical notions held by others in society – notions that have, in large measure, been created by ignorance and maintained by fear.

It is precisely these sorts of antiquated attitudes that have blocked people with disabilities from entering the mainstream of American life. Certainly attitudinal changes cannot be simply commanded or even legislated out of existence. No particular court order or single piece of legislation can alone change longstanding perception or misperceptions; regrettably, attitudes can only be reshaped gradually. One of the keys to this reshaping process, however, is to increase contact between and among people with disabilities and their more able-bodied peers. And an essential component of that effort is the enactment of a comprehensive law that promotes the integration of people with disabilities into our communities, schools and workplaces.”

On July 26, 1990, the Americans with Disabilities Act was signed into law by President Bush on a glorious summer day in a ceremony held on the South Lawn of the White House. Some 3,000 persons, with and without disability, and their family members looked on and cheered and cheered as President Bush called to let “the shameful wall of exclusion finally come tumbling down.”

What has been the effect of the Act? Before its passage, despite heroic efforts by advocates, the country’s existing laws and social benefit programs had proved inadequate. Vast numbers of individuals with disabilities lived in isolation and dependence. People with disabilities couldn’t get a job, ride a city bus or go to a restaurant or county library. We as a society had failed to eliminate attitudinal, architectural and communication barriers. All of which imposed staggering economic and social costs on our country.

After twenty years of the ADA, we see significant changes. New designated parking spaces at the local convenience store. A ramp at the neighborhood movie theater. A sign language interpreter at public gatherings. Braille on the ATM machine or in the elevator at the local hotel. And, most of all, persons with disabilities gaining more access to community living and to employment, although clearly not yet in the numbers we would like to see. Employment, in particular, is problematical as there has been no net increase in the percentage of employed Americans with disabilities in the past twenty years.

The ADA has been good for people with disabilities but, more important, it has been good for America, helping to fulfill the promise inherent in our democratic ideals. And, best of all, according to a nationwide NOD/Harris survey, nearly nine out of ten American adults aware of the ADA approve of the Act.

Many challenges remain, to be sure. Too many Americans still fail to appreciate the essence of the discrimination that people with disabilities face in their daily lives. Many Americans still don't see barriers to full inclusion— whether based on architecture, or attitudes. Many Americans still remain trapped by society's stereotypes about disability. Many Americans still think the barriers faced by people with disabilities stem primarily from their disabilities — not from what we as a society have erected.

It is essential too that we better educate people with disabilities about their rights and help them develop an expectation of equal treatment. Until recently, many people with disabilities had no choice but to internalize the exclusion and unfair treatment they experienced. Discrimination and unreasonable barriers were things that people with disabilities had to accept.

This was doubly harmful. Not only were people with disabilities excluded from important societal activities, but they were also sent a message that such exclusion was legitimate and natural. Well, it isn't. You know it. I know it. And now all America is learning to know it. Discrimination and exclusion are morally wrong and it is important that we make sure that people with disabilities know it is wrong and know there is something they can do about it.

### III.

Yes, progress is being made, but this is no time to rest on our laurels or to savor our accomplishments.

Important issues remain unresolved as the ADA has moved from public debate in legislative halls all the way to the United States Supreme Court. Increasingly, the Supreme Court has been called upon to decide a number of issues arising from passage of the ADA.

Many of these cases are fact specific, not surprising in view of the broad language of the Act, but many have involved important policy questions.

While the results have been mixed, a major reaffirmation of the rights of persons with psychiatric or intellectual disabilities to live in the community was forthcoming from the Justices in the 1999 *Olmstead* case, in which I was privileged to file a friend of the court brief. Justice Ruth Bader Ginsberg wrote the majority opinion which found unnecessary institutionalization to constitute discrimination based on disability under the ADA. Her opinion stated:

“[U]nder Title II of the ADA, States are required to provide community-based treatment for persons with mental disabilities when the State’s treatment professionals determine that such placement is appropriate, the affected persons do not oppose such treatment, and the placement can be reasonably accommodated, taking into account the resources available to the State and the needs of others with mental disabilities.”

While falling short of the ringing endorsement of community-based services that many of us hoped for, the Court did strike down arguments made by forces arrayed to keep in place that “shameful wall of exclusion” about which President Bush spoke. Efforts to gut the ADA provisions designed to promote the integration of persons with disabilities into the mainstream community were rejected by a 6 to 3 margin. The Court specifically refused to overturn a lower court decision obliging states, pursuant to the ADA, to provide programs and services “in the most integrated setting appropriate to the needs of . . . individuals with disabilities,” pursuant to regulations which I issued while serving as Attorney General.

All friends of the disability movement were pleased with this positive result, even though it left many “nuts and bolts” questions still unanswered as to the specifics of the right to receive services in the community.

Thereafter, other serious challenges were raised to the constitutional reach of the ADA. In *Garrett v. University of Alabama*, for example, the Court decided that states cannot be sued by their citizens for damages in the federal courts for violating Title I of the ADA, the part of the

Act that precludes public entities such as states, cities and towns, from discriminating against people with disabilities in the area of public employment. While fatal to only a small proportion of remedial actions in the courts, the *Garrett* decision definitely represented a step backwards and, in the view of many observers, relied upon a cramped reading of the intent of Congress in passing the ADA.

Those of us interested in disability rights took heart, on the other hand, from the Supreme Court's decision in *Lane v. Tennessee*, also a case in which I filed a friend of the court brief. There the Court refused to extend the reasoning in the *Garrett* case to claims under Title II of the ADA addressing access to government services, at least insofar as access to court houses is concerned.

And remedial legislative action has been undertaken, most notably in the ADA Amendments Act of 2009, to cure some of the anomalies arising from adverse court decisions in the field of employment law. The Help America Vote Act also contained specific provisions designed to fully empower Americans with disabilities to exercise that most precious of all rights in a free society – the right to vote.

Needless to say, a raft of other issues await determination in our courts as the legal parameters of the ADA become more fully developed. And we still await the full effects of the recently-passed congressional reforms in our health care system. This legislation expanded Medicaid eligibility and, as a result, many states are already proposing draconian cuts to their state Medicaid expenditures. The fact that all Medicaid home and community-based services are optional makes them particularly vulnerable to being cut as states begin to further tighten their budgets. The effect of such action on *Olmstead* initiatives could be devastating.

Finally, I cannot help but note the need for our United States Senate to promptly ratify the United Nations Convention on the Rights of Persons with Disabilities which would help to extend the principles of the ADA to those estimated 650 million people with disabilities around the world who lack any such protection today

In closing, I must tell you that, when I look back upon all that has been accomplished through the passage of the ADA, IDEA and other laws dating all the way back to Section 504 of the Rehabilitation Act of 1973, I quickly come to realize that none of these statutes were on the books in 1960 when our beloved son Peter was so seriously injured. It is only during his lifetime that we have taken these giant steps forward.

On behalf of all the Peter Thornburghs of our nation and this world and their families and loved ones, I extend to you our heartfelt thanks for your willingness to fight for their dignity and respect. We wish you Godspeed in further endeavors as we pay tribute to this landmark effort to empower all people to live as they choose in their communities. What a magnificent way to celebrate the 20<sup>th</sup> anniversary of the ADA!

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Mr. NADLER. I thank you.  
I will now recognize myself for 5 minutes to question the witness.  
Sir, you mentioned that your son Peter lives semi-independently in a supervised apartment near Harrisburg. What does it mean to

Peter that he lives in an apartment rather than in a larger institutional setting?

Mr. THORNBURGH. It means that he is able to participate in his community, that he is able to make decisions about his lifestyle, with the help of staff, to be sure. But he is not living the regimented, compartmentalized, segmented life that institutional care involves.

One of the major challenges we had to face when I was Governor of Pennsylvania was the preponderance of the population of people with mental and psychiatric problems being confined in institutions. And I remember very well the day when our appropriations for community-based living first exceeded the appropriations for institutionalized care. That was the day we broke out the champagne, Mr. Chairman, because that was a distinctive message sent to the people of Pennsylvania.

Now, there is no question that there are some persons who require institutional care. And I know parents who have had to face up to that reality. That is something that we had to consider in Peter's case, to be honest with you, at the time, because there was so little development of community-based care. But we had the right advice and good support, and he has been able to live a much more fuller life.

Mr. NADLER. And what does it mean to you and the rest of the family, in a way beyond what it means to him? I think you may have answered that already.

Mr. THORNBURGH. Well, obviously, those of us who have disability in our families become, almost automatically, advocates for disability rights. We learn a lot of things. We learn that disability is nothing to be ashamed of, that it is part of the fabric of life. We learn of the potential that exists for using the abilities of people with disabilities without focusing strictly on their disability. We learn of the vast support network that is out there that is waiting to be utilized and, if utilized, can magnify the opportunities for people with disabilities.

I think that there is a fraternity among parents and family members of people with disabilities that has few rivals in this Nation.

Mr. NADLER. Now, we sometimes hear arguments or concerns that complying with the requirements of the ADA is just too costly. You were the Governor of Pennsylvania during economically tough times. How would you respond to that concern?

Mr. THORNBURGH. I'm sorry, the question was about accommodating—

Mr. NADLER. That compliance with the ADA is sometimes said to be too costly. You were the Governor during tough times. How would you respond to that?

Mr. THORNBURGH. We were sensitive to that during the time that the bill was wending its way through, and we heard those remonstratives about the additional cost it would involve.

Let me answer that in two ways, first by personal example. When I was the Attorney General, we took as our number-one draft choice in the White House fellows that were available that year a man, then young man, now deceased, unfortunately, named Drew Batavia. Drew had suffered an auto accident and had spinal cord injuries and had to rely on his mobile chair to get him around.

But if you walked into Drew's office, you saw this: You saw his computer keyboard mounted on the wall and his telephone mounted on the wall and his desk raised a little bit so that he could slide underneath. And he used a mouse stick to utilize both of those. That was a reasonable accommodation, and it is one that made him extremely valuable.

He had a Harvard law degree and a Stanford business degree, so he was a real pro. But in olden times, pre-ADA or pre-sensitivity to these needs, he would have been a neglected resource.

Second question, I wish Attorney General Reno were here, because she and I, after 5 years of the ADA, agreed to look into the question of cost on accommodations. And we ended up writing a joint op-ed piece for The Wall Street Journal, of all places, to point out that the average cost of most accommodations that were made was minimal—in fact, almost *de minimis*, as the lawyers would say. And I am advised that the average cost today has gone no higher.

What it requires is some ingenuity and working with the person with the disability to see what their real needs are. There is no one-size-fits-all answer to these things.

So I think that is an objection that just doesn't play out in reality and is specious, at best.

Mr. NADLER. Thank you.

Let me ask you one final general question. What do you think Congress should do next to ensure that the promise of the ADA is kept? What should we do?

Mr. THORNBURGH. I think the emphasis has to be on employment. It is a tough nut to crack. We have difficult economic times. Able-bodied people, people without disabilities are unable to get work, in many cases, in spite of vast qualifications. But that shouldn't be an excuse for neglecting the initiatives that are necessary to build an economic base for people with disabilities.

And I think the answer there lays, in some respects, in the field of technology. I'm sure you, as I, have seen many people who have severe disabilities—an inability, in some cases, in cerebral palsy, for example—to articulate brilliant thoughts, and yet, through the use of technology, can.

Mr. NADLER. Stephen Hawking comes to mind.

Mr. THORNBURGH. Yes, exactly, there you go. But there are more Stephen Hawkings out there waiting to be developed. And through the application of technology and a sensitive aid structure for those folks, they will be important contributors to our future growth. So I think that is probably the area I would put the greatest emphasis on.

Number two, Olmstead, you know, how do we further and propel the movement of people from institutionalized care into group homes and into community-based living.

Mr. NADLER. Thank you.

My time has expired. I recognize the gentleman from Virginia.

Mr. SCOTT. Thank you.

Governor, you were Governor before the ADA, is that right?

Mr. THORNBURGH. I was.

Mr. SCOTT. But as Governor, you can imagine that there are cost challenges in complying with the ADA. Could you speak to how

Governors comply with State buildings, bringing them into compliance?

Mr. THORNBURGH. Well, I think what we did in Pennsylvania, partly because of my own sensitivity to these problems, was to try to be a little bit ahead of the curve. We would search out people with disabilities who were qualified to do State jobs and see what the needs were that they had that could be rectified, in terms of architectural barriers, first.

The attitudinal barriers were the things that had to go, and mostly by example, of getting somebody who had a disability into a job, watching how they progressed and seeing how well they did. That broke that barrier down pronto, no question about that.

But the thing about the ADA, Congressman Scott, is that it was the catalyst and the symbol that propelled the change that truly has been dramatic. I mean, when you and I stop to think of when we grew up what kinds of symbols of inclusion there were around—nada. I can't think of any. And yet, as we have all talked about today, what we have come to expect is to see those kinds of aids that sometimes are very subtle, sometimes very dramatic, that empower people to live what we would call a normal life.

Mr. SCOTT. Now, also, as a Governor, you know the challenges in funding things like supportive housing. One of the challenges that I dealt with as a State legislator was what we called the "woodwork effect." It is much cheaper to have someone with home health care than going into a nursing home. But when you provide the home health care, there are so many people who are eligible for that that were at home roughing it, that the total budget actually goes up on that line item.

Do you have the same problem with providing supportive housing, that, although, as you have suggested, it is cheaper in supportive housing than in an institution, that once you start providing the service, the costs go up, and to save money on the State budget, you just wait for people to go into an institution and actually save money, doing that, on the overall budget?

Mr. THORNBURGH. Yeah. I can only speak theoretically as a former Governor, because, to be honest with you, during that time, the concept of people staying in their homes was just developing. The concept of removing them from institutions was well under way, and, as I said, we were able to accomplish that. But where do you place these people? And that had not developed at all.

What I was intrigued by was my first encounters with centers for independent living, for people with physical disabilities in particular, which are truly astounding in their potential, not just from a money standpoint, but from the standpoint of integrating people into the community.

My fear is that, because of the unknowns inherent in the health care reform bill that you all have passed—and I don't pass judgment on that, but there clearly are some unknowns about the cost factors there; and particularly in Medicaid, by expanding the population available, there may be pressure at the State level to reduce the amount of services available for post-Olmstead services—that it is pretty easy, if you are going to cut, to look at that as a source when you are dealing with these expanded eligibility provisions. So the jury is still out on that.

But I am a firm believer, from having observed it and participated in it, that community-based living is miles ahead of any kind of institutionalized care or nursing home care.

Mr. SCOTT. I agree with you. The question is funding.

When you said that you were paying more for home care than for institutional care, did you achieve that by increasing home care or decreasing institutional care?

Mr. THORNBURGH. My guess? Probably a little of this, a little of that. That is what governing is about, isn't it? Making tough choices and coming up with a proper balance. Because, as we are reminded daily, we don't have unlimited resources in this or any other area.

Mr. SCOTT. Well, I would hope that we would try to invest as much as we can in home health and really relieve a lot of pain and suffering and anxiety. So, to the extent that we can fund those, I think we are a lot better off.

Mr. THORNBURGH. Count me in.

Mr. SCOTT. I appreciate your testimony.

I yield back.

Mr. NADLER. I thank the gentleman.

I recognize the gentlelady from Texas.

Ms. JACKSON LEE. Thank you, Mr. Chairman. This is a very, very important hearing, and I thank you and the Ranking Member of the Subcommittee for focusing on not only the 20th-year anniversary, but what are the next steps, going forward.

I am reminded of that time of celebration when this bill was passed. And I think one of the striking elements of the bill was the amazing bipartisanship that it generated, the recognition by everyone that it was long overdue.

And, in that vein, I think the words of President George H.W. Bush clearly spoke to the heightened excitement and emotion of the time, when he indicated that he considered the Americans with Disabilities Act as the Emancipation Proclamation for people with disabilities and called for the shameful wall of exclusion of people with disabilities from Main Street American life to finally come tumbling down.

And, Governor, Attorney General, I believe that we have made some steps toward that. And as the co-chair of the Congressional Children's Caucus, I would like to focus you on some of the thoughts that I believe you may have raised—and I apologize for not hearing your testimony. I was detained on the floor.

But you seem to have stated, to put an emphasis on providing community-based services for children and adults with disabilities as an alternative to large and isolated institutional settings. I would like you to describe some of those programs that you may have implemented, the benefits to them.

And, as I recall, on many occasions in my town hall meetings, there will always be that one parent, among others, that will be vocal enough to come up and ask a question about a disabled child. "What are the resources? My school district is not being responsive." So I think we still have ways to go.

But we have made great strides where we have not institutionalized those who are disabled, as particularly with what we would call mental disabilities, whether it is something that is from a

physical aspect that disables a child, but also from a perspective where one might perceive that they could not learn, Down syndrome, for example, where we have found amazing success stories.

But if you could answer that, and then I want to follow up with a broader question.

Mr. THORNBURGH. Surely.

I answer that question with, kind of, two hats on, Congresswoman, in this sense: as a parent of a child with a severe intellectual disability, now 50 years old; and as one who was involved in the negotiations that led to the passage of the act and has followed the act in its implementation after its passage.

I don't think anyone can underestimate the impact of the Olmstead case in this regard. If the Olmstead case had been decided otherwise and given communities across the United States an excuse to back off of the deinstitutionalization process, which was well under way by that time, we would not be talking about progress today. We would be talking about dealing with an entirely different population, a truly disabled population, institutionalized by our government's activities. But mercifully, that didn't happen.

And although Justice Ginsberg's decision in Olmstead was really not as clarion a call in support of the community-based treatment model as we would have liked, it did open the door—well, it, more than that, shut the door on the arguments that this was not an admissible way to deal with people with disabilities.

So I think that the mechanisms available are group homes, are support to families who retain children with disabilities in their homes. Our son lives in an assisted community environment. He is semi-independent, as I said, in an apartment. All of those, I think, in the aggregate, pale in cost when you look at the cost, the massive proven costs on the record, of our prior institutional regimen.

So it can't be a cost factor. And it has to be a factor that depends on the wit and the imagination of people who are in this field, in government, aided, advised, and abetted by a very vocal community of parents and providers and caregivers that have traditionally been at the front end of advocacy in this country.

So I don't go down either the path of saying that this is too difficult to do or the path that says we can't afford it. I think both of those are inadmissible conclusions. But they require in the alternative some real thinking and some real ingenuity about how we are going to reach that goal.

And, as you obviously know from your own constituency, how they respond when having that kind of environment for particularly, a child with a disability, is as rewarding as I can imagine.

Ms. JACKSON LEE. It is worth the investment, you are saying.

Just finally, do you see any obvious legal impediment today that does not comport with President Bush's pronouncement, as well as the fact of the instruction of that act, which said that it is a national mandate to eliminate discrimination as it relates to individuals with disabilities? Do you see something that we should immediately be looking at?

Mr. THORNBURGH. Yeah, I am pleased you mentioned his call for the shameful wall of exclusion to come tumbling down. He got that line, as you may know, from the fact that the Berlin Wall had just—as a shameful wall of inclusion, had come tumbling down.

And it was a marvelous metaphor and, I think, captured the goals of people who were assembled that day, in those words in very succinct terms.

I don't see any—I think the future is unlimited for improving the lot of people with disabilities in our society, in our culture. Once we get over the hurdle, as I think we have had, that this is just simply too expensive or it is too difficult—that is not an excuse that Americans have ever accepted in any field. And in this area, where the payoff, in terms of lives that are enriched by participation in the mainstream of America—they should be even less so.

Ms. JACKSON LEE. Thank you.

I yield back. Thank you very much.

Mr. NADLER. Thank you.

And I thank the witness for his participation. The witness is excused.

We will now proceed with the fourth panel. I will ask the witnesses to take their place. In the interest of time, I will introduce the witnesses while they are taking their seats.

Cheryl Sensenbrenner is the immediate past board chair of the American Association of People With Disabilities, the largest non-profit disability member organization in the United States. Mrs. Sensenbrenner has been married to Congressman Jim Sensenbrenner, the Ranking Member of the Subcommittee and former Chairman of the Judiciary Committee, for more than 30 years.

Her younger sister, Tara, has an intellectual disability. In 1972, as a passenger in a car accident, Mrs. Sensenbrenner sustained a spinal cord injury at the T12 level. Mrs. Sensenbrenner has worked in a number of Republican Party positions, both before and after her injury.

Lieutenant Colonel Gregory Gadson is an inspirational American whose journey from injury to ability has taken place within the military. During his service in Operation Iraqi Freedom in 2007, Lieutenant Colonel Gadson was severely injured by an improvised explosive device, resulting in the amputation of both legs above the knee and severe damage to his right arm.

A highly decorated military officer, Lieutenant Colonel Gadson has served in the U.S. Army for more than 20 years as a field artillery officer. He has served in every major conflict of the last two decades, including Operation Desert Shield/Desert Storm, Kuwait; Operation Joint Forge in Bosnia-Herzegovina; Operation Enduring Freedom in Afghanistan; and Operation Iraqi Freedom in Iraq, where he commanded a new unit as part of the surge to secure Baghdad in 2007.

He currently serves as the director of the U.S. Army Wounded Warrior Program, which serves the Army's most severely wounded, ill, and injured soldiers, veterans, and their families, fosters their independence, and supports their transition back to active duty or to civilian life.

Adrian Villalobos is an intern with the National Disability Rights Network in Washington through sponsorship from the Southern Education Foundation. He is focusing on special education and school accessibility policy at NDRN.

At the age of 8, Mr. Villalobos was diagnosed with a T7 spinal cord injury after a major car accident left him paralyzed from the

waist down. He has been an active member of the disability community for 17 years.

Mr. Villalobos just completed his first year of graduate studies at the University of Texas at El Paso, where he is working toward a dual master's degree in public and business administration.

Cassandra Cox is a former resident of an adult home in the Bronx who successfully transitioned to her own apartment more than 1 year ago. She is a member of the Policy Committee of the Coalition of Institutionalized Aged and Disabled, a consumer-run advocacy organization for adult home and nursing home residents in New York City.

Earlier this year, New York was ordered to begin moving residents from several New York City adult homes into supported community-based settings as part of a Federal court case, *Disability Advocates, Inc. v. Paterson*. In that case, Federal District Court Judge Nicholas Garaufis, of the Southern District, found the State violated the ADA's integration mandate by housing approximately 4,300 individuals with mental disabilities in adult homes which Judge Garaufis described as, quote, "bearing little resemblance to the homes in which people without disabilities normally live," closed quote.

Jonathan Young is chairman of the National Council on Disability and a senior counsel at the law firm of FoxKiser. Mr. Young previously served in the Executive Office of the President as associate director of the White House Office of Public Liaison and as project director for the National Rehabilitation Hospital Center for Health and Disability Research.

Mr. Young earned his B.A. from Messiah College, his J.D. from Yale, and his Ph.D. from the University of North Carolina at Chapel Hill.

I am pleased to welcome all of you. Your written statements will be made part of the record in their entirety. I would like to remind you to summarize your testimony in 5 minutes or less. When 1 minute remains, the light will switch from green to yellow, and then red when the 5 minutes are up.

Before we begin, it is customary for the Committee to swear in its witnesses.

[Witnesses sworn.]

Mr. NADLER. Let the record reflect the witnesses answered in the affirmative.

And our first witness I will now recognize is Cheryl Sensenbrenner.

**TESTIMONY OF CHERYL SENSENBRENNER, IMMEDIATE PAST BOARD CHAIR, AMERICAN ASSOCIATION OF PEOPLE WITH DISABILITIES**

Mrs. SENSENBRENNER. Thank you, Mr. Chairman. Thank you, Congressman Scott. Thank you, Congresswoman Sheila Jackson Lee.

I will try to be more—the hour is late, and I know that my testimony is pretty thick in the written form, so I will try just to highlight a few things and go back to the other people on the panel.

We are talking about all that has happened in the last 20 years. I, myself, am here today as a family member again, another a fam-

ily member. I was here before and after the ADA. I have a sister that is disabled. I have a son that is disabled. I, myself, am disabled.

And I look back as I've traveled with my husband over the last 20 years and see all the difference that ADA has done, not only for our country but globally, and the initiative and the different things that countries have done globally by looking at the United States.

I was thinking about the most northern community in the entire world, Svalbard, north of Norway, one of the most accessible places I have ever been to stay. I was thinking about going to the temples in Japan, where I, with my wheelchair, can get up any step, any subway, because of the accommodations they have there. We should be proud of what we have done, but we also should be proud of the leadership that we have provided for the world.

But as I reflect on that progress of the last two decades—and we have heard it all today—I am going to be a bit negative in my approach, because we've got a ways to go. I think it is important that we remind ourselves about the pervasive discrimination then—and around then and then see what is going on now.

I can remember the cold, snide remarks and the demeaning looks that my sister, Tara, who has Down syndrome, got every day—Tara, who has Down syndrome and drove a car since she was 16; Tara, who got her high school diploma; Tara, who keeps on wanting to work constantly but, because of the limitations of Supplemental Security Income, can't work as much as she wants to.

I think also about when I first got back to work after a year in the hospital—a good job. My father was attorney general in Wisconsin. We went into the lobby of a bank to cash my first check, and a bank executive stares at me and says, "People like that belong on park benches out front and not in our lobby." I remember it very clearly. "People like that," he said. "People like that."

People like that are me. People like that are my son. People like that are my sister. People like that are some of my dearest friends. People like that are countless Americans. People like that can be your loved ones, can be your friends, or maybe even someday it could be you. We don't know what the future brings and whatever shape our age brings. For instance, look even today, when we see all of our soldiers coming back from Iraq and Afghanistan, what did they know that disability would be in their future.

I told you a little bit about my sister and how much she wants to work and she has Down syndrome and how proud I am of her. Let me tell you about our oldest son, Frank.

Frank was diagnosed with attention deficit hyperactivity disorder as a young child, and we had our share of challenges. Frank is brilliant. Frank is categorized as a genius. But yet, to find a school that could provide the right combination of structure, mentoring, and challenging academic work, Frank could not take a traditional path.

Frank went for a year of high school in Canada. They gave him a degree. Went and got his college degree in the U.K. And I am proud to tell you today—and Frank is looking forward to this testimony—he struggled, and he deserves everything. He is great. Frank is it on the verge of earning a Ph.D. in finance from the Uni-

versity of Sydney. And, believe me, he is good. He interned for the Banking Committee when he was in high school, by the way.

Also, Frank encouraged me to be tested. Guess who has attention deficit disorder besides the other thing? Ta-da. So we've really got—we know disability in our family.

And yet, with education and things, the ADA provides protection and encouragement to millions of Americans. We're trying to figure our own course through the world of education, through the world of employment. We look for help, but we all have our own unique learning styles, our own way to show what we can do. And sometimes the professionals can't.

You know, disability is just a natural part of the human experience, and that is what the ADA started to make us all understand. And we don't ever know when it may come in our life or enter, be it friend or ourselves.

I want to tell you one quick story, if I have time, and then one other note.

You know, we think this is all behind us. In our wonderful intern program, we have college students come, work in the Federal Government and also on the Hill. Do you know, last year, as we went around and we were trying to place some of the interns—and it is not hard to place, once you have had one of our interns—we were explaining that this particular stellar student from Gallaudet would need a sign language interpreter doing her functioning within the office. And I'm not trying to pick on this intern coordinator, but the coordinator said, "Well, what would a deaf person be able to do in a congressional office?" Well, as we all know, a deaf person can do what everyone else could do in a congressional office, as long as they are provided with reasonable accommodation.

My hope and expectation is that this Committee will take the opportunity by this anniversary and go back and talk to your own constituents and talk to the families and find out what barriers still exist and how you can help open wide the doors to employment, homeownership, and participation in society.

Thank you so much.

[The prepared statement of Mrs. Sensenbrenner follows:]

PREPARED STATEMENT OF CHERYL SENSENBRENNER

TESTIMONY OF CHERYL SENSENBRENNER  
IMMEDIATE PAST BOARD CHAIR,  
AMERICAN ASSOCIATION OF PEOPLE WITH DISABILITIES

BEFORE THE UNITED STATES  
HOUSE OF REPRESENTATIVES  
COMMITTEE ON THE JUDICIARY

JULY 22, 2010

Chairman Conyers, Ranking Member Smith, and Members of the Committee:

Thank you for the invitation to testify on the occasion of the 20th anniversary of the landmark Americans with Disabilities Act (ADA). I am honored to have this opportunity to join my friends Leader Hoyer and Governor Thornburgh to reflect on two decades of progress and some of the ongoing challenges facing people with disabilities in the United States and globally. My name is Cheryl Sensenbrenner, and I am pleased to offer my testimony today as the Immediate Past Board Chair of the American Association of People with Disabilities (AAPD), a national non-profit, non-partisan membership organization promoting the political and economic power of the more than 50 million children and adults with disabilities throughout the U.S. With more than 100,000 members, AAPD is the largest national cross-disability membership organization in the country. In addition to my affiliation with AAPD, I offer my testimony today as a disabled woman who remembers what it was like before the ADA; as the big sister of Tara, who has Down syndrome; and as the mother of Frank, who has attention deficit hyperactivity disorder.

I last appeared before this Committee's Constitution Subcommittee in October 2007 to testify in support of what became known as the ADA Amendments Act, an important bipartisan bill that helped to restore the broad scope of protections in the original ADA and undue much of the damage that had been created by a series of harmful court decisions interpreting the definition of disability in the ADA. That 2007 hearing helped lay the foundation for a successful bipartisan bicameral effort that bore fruit in 2008. I remember fondly the floor vote in June of 2008 when the House voted 405-17 in support of this critical legislation that restored civil rights protections for millions of Americans with epilepsy, diabetes, depression, cancer, and a range of other conditions. I want to start my testimony today by offering my heartfelt thanks to all of the members of this Committee who worked with my husband Jim, Leader Hoyer, and our broad coalition to bring a well-designed bill to President Bush for signature. Watching President Bush sign that legislation in September of 2008 was one of the proudest moments of my time in Washington, and it could not have happened without the bipartisan leadership and support of the members of this Committee.

I.

We are here today for a broader purpose than when I last appeared, to celebrate two decades of implementation of the ADA and to reflect on the work that lies ahead of us as a nation to fully realize the vision of that powerful law. In 1990, with tremendous bipartisan support, Congress passed the ADA, and President George H.W. Bush signed it into law. During its passage, Congress acknowledged that people with disabilities were extremely disadvantaged socially, economically, vocationally, and educationally—this “political powerlessness” on account of pervasive discrimination, segregation, and exclusion “resulting from stereotypic assumptions not truly indicative of the individual ability of such individuals to participate in, and contribute to, society . . .”

Congress's intention was clear. This great law, the ADA, was meant to stand as the “emancipation proclamation for people with disabilities” against the unfair discrimination that had permeated all aspects of life for people with disabilities for far too long. The law's broad directive to employers, public transportation systems, public accommodations, as well as other program and service providers (including the private sector) was to stop the unfair treatment of people on the basis of their current, past, or perceived disabilities. Once implemented, the ADA was intended to give all people with disabilities the opportunity for independence and full participation and inclusion in society.

And to be sure, in the last 20 years since its passage, we have witnessed an undeniable transformation in our society. Access to public transportation has improved considerably on account of the ADA requirement that all new buses, trains, and accompanying stations be accessible for people with mobility, sensory and other disabilities—there is no question we live in a more accessible society than in 1990 on account of the ADA. Closed-captioning, curb cuts, power-assisted doors, and large print signage—all of these are hallmarks of society post-ADA—of a society more welcoming of and accessible to people with disabilities than in a time past. As we experience the aging of my generation of baby boomers, I am delighted that the ADA has prepared America for our growing population of people with mobility and sensory impairments related to age. We can all get around easier and stay active in our

communities longer thanks to the accessibility improvements spurred by the implementation of the ADA.

As someone who travels frequently with Jim, I have also observed that the ADA has inspired countries around the world to pass their own legislation to improve accessibility and recast disability issues in terms of civil rights, human rights and equality of opportunity. I was excited to see our government sign the U.N. Convention on the Rights of Persons with Disabilities last year, and I remain hopeful that our Senate will ratify that important treaty when it is delivered for their consideration later this year.

## II.

As we reflect on the progress of the last two decades, I think it is important that we remind ourselves about the pervasive discrimination that existed in this country and around the world before we ever had an ADA. I can remember cold, snide remarks, and demeaning looks and stares that my sister, Tara, who has Down syndrome, endured nearly every day growing up. And for myself, I vividly recall numerous occasions in which I was subjected to the ignorant comments and low expectations of others after acquiring my spinal cord injury at age 22 in 1972. I remember once waiting for my father, then Attorney General of Wisconsin, in the lobby of a bank while he conducted some business, and I remember a bank executive staring at me and stating coldly, "People like that belong on park benches out front and not in our lobby." I remember it so clearly—"People like that," he said. "People like that" are I, my sister, my son, many of my dearest friends, and countless Americans. "People like that" are your loved ones, your friends, or even you—now, or in the future.

I can also remember going to the Mayo Clinic after my accident, and I remember the specialists there telling my father that because of my disability, I would never get a job, never get married and never have children. I remember my father telling me that I should not worry, that I could live at home with my parents for the rest of my life, that he would take care of me. That was in 1972. I am happy to tell you that I did not accept the circumscribed life that the specialists envisioned for me. In fact, after my accident, I became the first woman to run for State Assembly in Door County, Wisconsin, and I

remember receiving a financial contribution from one of my father's political opponents, a young handsome Republican named F. James Sensenbrenner. As you all know, Jim and I got married in 1977, and, with my strong encouragement and hard work, Jim was elected to the House in 1978. We have two remarkable sons and we have never let my disability keep us from travelling the world and enjoying the ups and downs of a long career in politics.

Our oldest son Frank was diagnosed with attention deficit hyperactivity disorder as a young child, and we had our share of challenges finding the right school environment for a brilliant boy who needed a school that could provide the right combination of structure, mentoring, and challenging academic work. Frank did not take a traditional path, completing high school in Canada and earning a college degree in the U.K. Jim and I are so proud of what he has achieved personally and professionally, and I am delighted to tell you that Frank is on the verge of earning a Ph.D. in Finance from the University of Sydney. With the encouragement of Frank, I eventually got myself tested and learned that I too have attention deficit disorder. Our experience with Frank reminds us that the ADA provides protections and encouragement to millions of Americans who are charting their own course through the world of education and employment with their own unique learning style, often having to innovate a path that very few professional educators can help them figure out.

In sum, I can tell you that our country is a more welcoming place for people like me, my little sister Tara, and my son Frank thanks to the ADA. You see, the ADA starts with the recognition that disability is a natural part of the human experience. Any person at any time can encounter or acquire a disability. Some people are born with their disabilities, like Tara, Frank and me, in the case of the ADHD. Some acquire their disabilities through accident or injury, like I did when I acquired my physical disability after the car accident. Others encounter invisible disabilities through a bout with an illness. Some manifest their disabilities during their school years. Others acquire a disability as they age. And still others acquire disability while putting their lives on the line for our country, as we are reminded daily with each wave of returning soldiers from Iraq and Afghanistan.

Given that all kinds of disability can enter any person's life at any time, often without warning, the more accessible the society we create, and the more intact our system of legal protections, the greater benefit we all reap as a result. The ADA, then, is a law for all people. It was meant to ensure that whatever the circumstances may be that surround a person's encounter with disability, Americans are never to be treated unfairly, excluded unnecessarily, or relegated to second-class citizenship on the basis of disability without recourse.

### III.

Despite all the progress since the passage of the ADA, sadly, we still have a long way to go before the ADA's inclusive vision becomes a reality in America. For instance, I am amazed at how routinely kind and well-educated individuals with whom I interact assume that I acquired my disability after marrying my husband Jim, by remarking how good it was of him to "stick by me" through that. The fact of the matter is Jim and I fell in love and got married during a time in which I was already disabled. You see, he "got me" in a wheelchair, or at best on Canadian crutches. As for my sister Tara, through the support of family, she graduated from high school, pursued college coursework, and has gone on to support herself through various jobs, which she has used to finance and insure her car and participate in numerous hobbies. And yet despite all her immediately apparent independence, Tara too still routinely runs up against paternalistic words and actions. She also continues to run up against a Supplemental Security Income program that creates perverse incentives for her to limit her work hours and not save too much money for fear of losing benefits.

In my travels with Jim on numerous Congressional delegations over the years, I have learned that it is very difficult to predict the reception that we will receive from foreign dignitaries when they learn that a member of the delegation has a mobility impairment and is using a wheelchair. To this day, we run into people who are disgusted and mortified when they learn of my disability. I remember on one trip our hosts were so concerned for my well being that they seemed tempted to follow me into the bathroom! And yet, for every bad experience, I can recount a positive one. I was pleasantly surprised by the extraordinary accessibility of Svalbard, a remote island off the coast of

Norway, and charmed by the ability of Japanese dignitaries to make it possible for me to visit ancient temples in my wheelchair while in Japan.

Although there are many obstacles yet to be removed for people with disabilities in the U.S. and globally, I believe the largest and most pervasive one to remain is that of attitude. The fears, myths, and stereotypes about people with disabilities from my youth are the same fears, myths, and stereotypes that I still hear of and encounter today, and they are the same fears, myths, and stereotypes that all too routinely result in people being shut out of employment and educational opportunities. There are still cultures around the world that see a disability as a curse on the family, and we still have millions of disabled people in the U.S. and globally whose lives are artificially limited by the confines and rules of life in a nursing home or other institutional setting. I believe that we all need to bear witness to the injustice and immorality of these ongoing human rights violations, and I commend you for having this hearing today to help remind us all that our country's work in implementing the letter and spirit of the ADA is not complete.

I have thoroughly enjoyed the work I have done as a volunteer with the American Association of People with Disabilities, and I especially enjoy each summer when I have an opportunity to get to know the college students who participate in AAPD's two summer internship programs. I want to share a story from the 2009 summer program to help illustrate some of the attitudinal challenges that are still with us today, notwithstanding almost two decades since the enactment of the ADA. During the Spring of 2009, AAPD's CEO and my good friend Andy Imparato was going from office to office working on securing placements for AAPD's eight Congressional interns. Andy has learned from experience that it is helpful to actually meet the intern coordinators in the offices to which our interns have a geographic connection, and to take the opportunity of the in-person meeting to try to answer any questions the intern coordinators might have about a potential candidate. One of our interns last summer was a stellar Gallaudet undergraduate who was deaf and required qualified sign language interpreters in order to have access to the full range of opportunities that would be available to typical summer Congressional interns. When Andy explained our candidate's need for interpreters to the intern coordinator of the House member who

represented the intern's permanent address, the intern coordinator said to Andy, "Excuse my ignorance, but what would a deaf person do in a Congressional office?"

This happened last year, not 25 years ago. As you all know, deaf people, when provided reasonable accommodations like interpreters, video relay, and real time captioning, are able to do what anyone else does in a Congressional office. The deaf woman I mentioned ended up having a life-altering positive experience working for Leader Hoyer, and he can certainly tell you what a deaf person can do in a Congressional office. So can Speaker Pelosi, whose counsel Mike Tecklenberg has a hearing disability. I tell this story not to pick on the intern coordinator who asked Andy the question, but to remind all of us that there is still a lot of ignorance about disabilities in the workplace, even in workplaces with well educated and public service oriented employees. How many people fail to make an offer of employment because they are afraid to ask questions that would help them learn about how to accommodate a worker with a disability?

#### IV.

While it is obvious that the ADA has acted as a great equalizer in a variety of contexts, it is equally apparent to me that the law's full potential has yet to be realized. The ADA, as Congress intended in its passage, creates an incentive, arising from a legal obligation, for all citizens to forge a better understanding and more proper perspective for accepting and integrating people with disabilities into all aspects of society, including the workforce. In order for that to occur and for the greatest barrier to all people with disabilities—fears, myths, and stereotypes—to be removed, we must continue down the path that we have begun with two decades of implementation of the ADA, and develop new methods to start to improve education and employment outcomes for this population.

The employment rate of people with disabilities has not improved during the two decades since the passage of the ADA. Two-thirds of individuals with disabilities who do not have a job say they want to have one but cannot find employment. Many of those who do find employment often experience discrimination along the way—in hiring,

requesting accommodations, or in unlawful terminations—on account of the same pervasive fears, myths, and stereotypes which characterized the past.

In my role with AAPD, I often think of our organization's summer Congressional and information technology interns with disabilities. I think of how gifted, capable, and sometimes eccentric they are—all so unique and all with such varied disabilities—and I wonder what kinds of artificial barriers lie ahead of them as they make their way into the working world.

My hope and expectation is that this Committee and your colleagues in federal, state and local government will take the opportunity afforded by the 20th anniversary of the ADA to begin a conversation with your own constituents—with the disabled people and their families who live in your districts. Ask them what barriers still exist that inhibit or prevent their full participation in society. Ask them what we can do to open wider the doors to employment, home ownership, and participation in the middle class. Ask them to get involved in your election campaigns and the day-to-day work of governing. And perhaps most importantly, when you find a person with a disability who has good ideas and a vision for how to continue down the course that we charted when we passed the ADA, take the next step and hire that person to work in your Congressional office. When the staff of this Committee and when your personal office staff truly reflects the diversity of your home districts, including representation from your citizens with disabilities, then you will have led by example and all of us will benefit from the insights that these staff will bring to the work of government.

Thank you for giving me the opportunity to provide my testimony this afternoon.

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Mr. NADLER. Thank you.  
Lieutenant Colonel Gadson is recognized.

**TESTIMONY OF LT. COL. GREGORY D. GADSON, DIRECTOR,  
U.S. ARMY WOUNDED WARRIOR PROGRAM**

Colonel GADSON. Chairman Nadler, Ranking Member, and distinguished Members of this Subcommittee, thank you for this opportunity to testify today and share my experience as a wounded warrior that continues to serve on active duty.

I am appearing today in my personal capacity. Although I am on active duty with the United States Army, my testimony here today represents my personal views and does not necessarily reflect the views of the Army, the Department of Defense, or the Administration.

See, I was commissioned in 1989 from a United States military academy, where I played football for 4 years. And for the past 20-plus years, I have continued to live an active lifestyle while serving in the United States Army, enjoying soccer, scuba diving, hiking, and even skiing.

In May of 2007, I was severely wounded by an improvised explosive device. As a result of those wounds, I lost both of my legs above the knee and sustained severe damage to my right arm. As you can imagine, my life was turned upside-down. Admittedly, prior to being wounded, I had no understanding or appreciation of the Americans with Disabilities Act. But since then, I have learned a great deal and appreciate its value to our society.

I have been fortunate to travel overseas and am repeatedly struck by the fact that, unlike the United States, foreign countries do not always consider disabled accessibility a priority. In fact, in some parts of the world, accessibility is not even a consideration. I understand how fortunate I am to live in a country where accessibility is not only the law but it is truly embraced.

In terms of the uniformed services' day-to-day missions and functions, adherence to the Americans with Disabilities Act is not required. However, with the start of Operations Iraqi Freedom and Enduring Freedom, the Army has begun accommodating the changing face of its force. The Army has developed and expanded existing policies, allowing seriously wounded soldiers to continue to serve on active duty.

From my perspective, the Army leadership embraces the spirit and the intent of the ADA. I am a testament that the Army leadership understands those who are severely wounded can still make valuable contributions through continued service in uniform to our Nation. Not only have I been allowed to continue to serve, but I have been given the opportunity to flourish, grow, and reach my full potential.

Furthermore, I would like to highlight the Army's efforts with respect to accessibility. I am proud to say that I live in an ADA-compliant home recently constructed at Fort Belvoir. Additionally, all newly constructed Warriors in Transition complexes are also ADA-compliant.

On July 13, 2010, I assumed the duties of director of the Army Wounded Warrior Program. The United States Army Wounded Warrior Program assists the Army's most severely wounded, ill, and injured soldiers and their families. We facilitate their transition back into active-duty service or their transition into civilian life. It is a program that takes great care in making sure that we

assist those who have made tremendous sacrifice in getting back on their feet.

Thank you for this opportunity to testify, and I'm ready to address any questions you have.

[The prepared statement of Lieutenant Colonel Gadson follows:]

PREPARED STATEMENT OF GREGORY D. GADSON

STATEMENT BY

LIEUTENANT COLONEL GREGORY D. GADSON

DIRECTOR, ARMY WOUNDED WARRIOR PROGRAM

BEFORE THE

COMMITTEE ON THE JUDICIARY

SUBCOMMITTEE ON CONSTITUTION, CIVIL RIGHTS AND CIVIL LIBERTIES

UNITED STATES HOUSE OF REPRESENTATIVES

SECOND SESSION, 111<sup>TH</sup> CONGRESS

ON AMERICANS WITH DISABILITIES ACT AT 20

CELEBRATING OUR PROGRESS, AFFIRMING OUR COMMITMENT

22 JULY 2010

NOT FOR PUBLICATION

UNTIL RELEASED BY THE

COMMITTEE ON THE JUDICIARY

Chairman Nadler and Ranking Member Sensenbrenner, distinguished members of this subcommittee, thank you for this opportunity to testify today to share my experiences as a wounded warrior that continues to serve on Active Duty. I am appearing today in my personal capacity. Although I am on active duty with the U.S. Army, my testimony here today represents my personal views and does not necessarily reflect the views of the Army, the Department of Defense or the Administration.

I was commissioned in 1989 from the United States Military Academy, where I was a four-year letterman in football. I continued to live an active lifestyle while serving in the United States Army, enjoying soccer, scuba diving, hiking and camping.

I have been on active duty for over 20 years, serving in various command and staff positions. I have served in every major conflict of the last two decades, including Operation Desert Shield/Desert Storm (Kuwait), Operation Joint Forge (Bosnia-Herzegovina), Operation Enduring Freedom (Afghanistan), and Operation Iraqi Freedom (Iraq), where I commanded a battalion as part of the surge to secure Baghdad in 2007.

In May 2007, I was severely wounded by an Improvised Explosive Device (IED). As a result of those wounds, I lost both legs above the knees and sustained severe damage to my right arm. As you can imagine, my life was turned upside down. Admittedly, previous to being wounded, I was not aware of the Americans with Disabilities Act (ADA). But since then, I have learned a great deal and appreciate its value to our society.

I have been fortunate to travel overseas and am repeatedly struck by the fact that, unlike the United States, foreign countries do not always consider disabled accessibility a priority. In fact, in some parts of the world, accessibility is not even a consideration. I understand how fortunate I am to live in a country where accessibility is not only the law, but it is embraced.

In terms of the uniformed services' day-to-day missions and functions, adherence to the ADA is not required. However, with the start of Operation Iraqi Freedom/ Operation Enduring Freedom, the Army has begun accommodating the changing face of its force. The Army has developed and expanded existing policies allowing seriously wounded Soldiers to continue to serve on active duty. From my perspective, Army leadership embraces the spirit and intent of the ADA. I am a testament

that Army leadership understands those who are severely wounded can still make valuable contributions through continued service in uniform to our Nation. Not only have we been allowed to continue to serve, but we have been given the opportunity to flourish, grow and reach our potential.

During the second year of my recovery, I attended and graduated from Georgetown University, earning a Master's degree in Policy Management. This past June, I completed my War College Fellowship at the Institute of World Politics in Washington, DC. Last October, I was selected for promotion to Colonel and this past March, I was selected as an alternate for brigade command. My point is not to highlight any of my accomplishments, but to show there is opportunity regardless of your circumstances.

Furthermore, I would like to highlight the Army's efforts with respect to accessibility. I am proud to say that I live in an ADA-compliant home, recently built at Fort Belvoir. Additionally, all newly-constructed Warrior in Transition complexes are ADA-compliant.

On July 13, 2010, I assumed the duties of Director, Army Wounded Warrior Program (AW2). The U.S. Army Wounded Warrior Program assists the Army's most severely wounded, ill and injured

soldiers and their families. AW2 facilitates their transition back into full time service or productive civilian life. We accomplish this mission by delivering compassionate, tailored, and personal support to our wounded Warriors; educate others on the program; design, integrate, leverage, and influence relevant policy and programs to ensure that severely wounded, ill and injured Soldiers, Veterans, and their Families are supported for as long as it takes.

The U.S. Army, through AW2, has leveraged the goodwill of the American people, including the tremendous support from various veterans service organizations and charities. I look forward to the opportunity to continue my service to our Army and our Nation by leading AW2 and assisting our Soldiers and their families.

Thank you again for this opportunity to testify and I stand ready to address any questions you may have.

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Mr. NADLER. Thank you.  
Mr. Young is recognized.

**TESTIMONY OF JONATHAN M. YOUNG, CHAIRMAN,  
NATIONAL COUNCIL ON DISABILITY**

Mr. YOUNG. Thank you, Mr. Chairman, Ranking Member Sensenbrenner, Congressman Scott, Congresswoman Jackson Lee,

other Members of the Subcommittee. Thank you for the opportunity to be here today.

It is a profound honor for me to provide testimony on behalf of the National Council on Disability. It completes a circle in my life, and I would like to tell you about that in a moment.

But let me first say that, in light of what I have been hearing today, one of the points I want to emphasize is the critical role of this Committee, this House, this Congress, in continuing to deliver on the promise of the ADA. The ADA is neither self-sustaining nor unassailable. And while we celebrate, we must continue to rededicate.

But let me tell you a little bit from my personal experience about why your role is so important, among others in our country. My first encounter with the National Council on Disability was in 1996 when I began to work on the history of the Americans with Disabilities Act under a contract with NCD. I was a Ph.D. candidate in American history, at the time, at the University of North Carolina at Chapel Hill writing a dissertation on the slavery debates.

The irony in my undertaking about the history of the ADA was it was really my first encounter with the concept of being a person with a disability, even though I had broken my neck 10 years previously and was partially paralyzed from that injury.

I didn't identify as a person with a disability. I didn't think of myself as part of a disability community. Disability was the enemy. I was embarrassed. I wanted to hide. I wanted to be perceived as normal as I could be. I was only vaguely aware of the ADA when it passed in 1990, probably much like many people with disabilities around the country.

I had also gone through a bout of depression and was at the nadir of that period about the time that I was asked to write the history of the ADA. In fact, there was a time where I wasn't even sure I would be able to hold a meaningful job.

But in researching the ADA and interviewing Members of Congress, advocates in the disability community, some of whom have been here today, my own internalized stigma about disability ran headlong into the extraordinary stories of power and strength, of pride of people with disabilities, and the extraordinary, collaborative, bipartisan, intense effort to pass the ADA.

In retrospect, when I penned the closing line of "Equality of Opportunity: The Dawn of a New Day," it was as much about my own personal experience in becoming and identifying as a person with a disability and becoming a part of a community. Disability became a source of liberation, rather than stigma. My life gained new purpose and meaning.

So I am grateful for the chance that NCD gave me to write a history of the ADA. It transformed my life. And this personal encounter that I had with the ADA, for me through history, is a story you hear again and again, you've heard from Cheryl, you've heard from Colonel Gadson.

The ADA, Supreme Court Justice Anthony Kennedy once said, is a teacher of sorts. We depend on the ADA to teach all of us, individually and our society, about ending exclusion in a very deliberate and powerful way. As Cheryl suggested, we can't forget where we have come from, even while we have a long way to go.

“Ugly laws,” as they were called, pervaded 19th-century America. The mere appearance of unsightly people was enough to be excluded. The Smithsonian’s American History Museum featured a sign in one exhibit before the ADA, a beautiful suburban community with a sign that said, “No wheelchairs permitted beyond this point.”

We take for granted now that those things are not allowed, but we have to maintain vigilance to make sure, because the attitudes don’t change overnight. There is a lot of work to be done, and it’s in that individualized process. And, as I mentioned, we depend upon Congress to convene hearings like this to provide opportunities to continue work on things like personal assistant services in communities.

And the second point along those lines that I want to make is that I am here with you today as a young person, not having had any role in passing the ADA, benefiting from the extraordinary work of you and many others. But we need a new generation of leaders, in Congress, among congressional staff, in the advocacy community, in the Administration. And all of you have a critical role in that educational process that Justice Kennedy talked about, in continuing to be vigilant in enforcing the ADA.

I know my time is drawing to a close here. Let me mention that, as we talk about what the ADA means, it is not just about raising expectations for our businesses, for our schools, for our government offices. It is about changing the expectations of people with disabilities themselves. The ADA is about a dignity of risk, giving all people with disabilities a chance to take risks, to succeed, and to fail. There is no guarantee of success.

As Cheryl pointed out, disability is a natural part of the human experience. It is not about a particular interest group. It is a law for all Americans, because all of us, at any point, could use what the ADA provides, not only when we have disabilities, but because of what the ADA does to change society. We have heard about curb cuts. Yes, they help people with wheelchairs, but take a look at merchants with carts, at parents with strollers, at bicycle enthusiasts. This law is for America. It’s for our veterans.

A panelist on NCD’s summit next week, where we are going to focus on themes of living, learning, and earning, Sergeant Pasco, like Colonel Gadson, was severely wounded by, not one, but two improvised explosive devices. When he joined the service in 1990, I don’t think we thought that the ADA was about our veterans. But as we undertook two wars in Iraq, the ADA is changing our society so that we can deliver on the promise to our soldiers that, when they return, we are making sure that we appreciate their service not as past veterans but as continuing contributors to our society.

The work of the National Council on Disability has a critical role in working with Congress and the Administration. And let me, in closing, simply say that I am proud that the legacy, the hope, and the promise of the ADA endure. We know that much work must be done to transform the law into life, and together, we can all be a catalyst for our Nation’s continued transformation.

Thank you.

[The prepared statement of Mr. Young follows:]

PREPARED STATEMENT OF JONATHAN M. YOUNG



**National Council on Disability**

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An independent federal agency making recommendations to the President and Congress to enhance the quality of life for all Americans with disabilities and their families.

**Testimony of Jonathan M. Young, Ph.D., J.D.**

**Chairman, National Council on Disability (NCD)**

Subcommittee on the Constitution, Civil Rights and Civil Liberties

Judiciary Committee

U.S. House of Representatives

**“Americans with Disabilities Act at 20 –  
Celebrating Our Progress, Affirming Our Commitment”**

Thursday, July 22, 2010

2141 Rayburn House Office Building

2:00 P.M.

Mr. Chairman, Ranking Member, and Members of the House Judiciary Subcommittee on the Constitution, Civil Rights and Civil Liberties:

Thank you for the opportunity to submit for the record this written testimony just a few days before the 20<sup>th</sup> anniversary of the signing of the Americans with Disabilities Act (ADA). Providing testimony on the ADA is an especially profound honor for me as the Chairman of the National Council on Disability (NCD), as it completes a circle of sorts in both my personal and professional lives.

### **The Americans with Disabilities Act – Dawn of a New Day**

There is a personal dimension to the history of the ADA and the history of the agency of which I am now Chairman – one that poignantly displays the power of the ADA. In 1996, I began work as a contractor on the *Equality of Opportunity: The Making of the Americans with Disabilities Act* report for NCD while a doctoral candidate in American history. The irony in this undertaking was that I was a person with a disability, having broken my neck in a high school wrestling match and living with partial paralysis, however, I did not identify as a person with a disability, nor did I view myself as part of a disability community. To me, disability was the enemy. I wanted to pass for “normal” as best I could.

So in 1996, ten years after my original spinal cord injury, having spiraled downward into a depression after years of internalizing social stigma about disability, and while giving serious thought to dropping out of my Ph.D. program, I found myself contracted to write a history of the ADA on contract with NCD – a project I had serious self-doubt about completing. However, through writing the ADA’s history, my life was radically transformed.

I had only been vaguely aware of the ADA when it passed in 1990—probably much like most of the 43 million people identified in the ADA’s findings who similarly lacked identity as a person with a disability and thus took little note of the ADA’s passage. However, researching the history of the ADA, and particularly interviewing many of the people who made the ADA’s enactment possible, including people gathered here today, made me rethink the meaning of disability and my own identity. I was riveted by the story of how the ADA came into existence and the gravity of the change wrought through the ADA. My preconception that disability was a debilitating weakness, an enemy to be overcome, ran headlong into the life stories of disability rights advocates whose power and pride both individually and collectively laid the foundation for passage of the ADA.

By the time NCD released *Equality of Opportunity* on July 26, 1997, I had begun to view myself as a person with a disability and as part of the disability community. I had also emerged from a deep depression and regained my self-confidence—no doubt largely because my inability to embrace my identity as a person with a disability had contributed to my depression in the first place. In retrospect, penning the closing line of *Equality of Opportunity* —“The dawn of a new day”—was as much about the impact of

the ADA on my life as the ADA itself. Identity as a person with a disability was liberating rather than stigmatizing. It gave my life new purpose and meaning.

My personal story is part and parcel of the ADA's significance in our society. The ADA is a nondiscrimination, civil rights law. However, much more than that, it is a clarion call for transforming attitudes about disability. As more people undergo the kinds of transformative experiences I and many others have had, we can build a stronger base of support for effectively implementing the ADA and other disability policies and programs.

#### **The Identities of NCD and ADA are Intertwined**

NCD has a critical role to play in preserving and strengthening the impact of ADA in our nation's policies and programs. Indeed, NCD's very identity is inextricably intertwined with the ADA and its history. NCD began as a small advisory body within the Department of Education. In 1984, Congress made NCD an independent agency and charged it with a new mandate to review all federal policies and programs. Two years later, NCD delivered on that charge with its path breaking report, *Toward Independence*, which called for enactment of the ADA. NCD later helped rally the disability community around it when NCD offered the first draft in 1988. After the ADA was signed into law, NCD's mission was amended to reflect the national disability policy goals now enshrined in the ADA.

NCD now serves a unique role among federal agencies because its mission reflects the breadth and diversity of the disability community itself. Achieving this mission requires bipartisan collaboration among diverse stakeholders. NCD will continue to seek common ground and help to identify priority issues for a diverse community that can make critical differences in the lives of millions of people with disabilities.

So with each ADA anniversary, NCD takes stock of its own history, and the 20<sup>th</sup> anniversary is no different. In fact, during my tenure as Chairman, my primary objective is to build a solid foundation for NCD to carry its work into the future, which means being able to coordinate and collaborate effectively across the Federal Government, with state and local governments, and with a variety of stakeholders within the disability community. We are at a critical juncture. There is no longer any mystery about the broad policy objectives for people with disabilities. The important uncertainties regard concrete and actionable steps toward implementing our policy objectives. Absent effective leadership and coordination, we will continue to fall short both in improving the lives of people with disabilities and in stabilizing our nation's fiscal health.

NCD will continue to identify policy priorities, but we want to ensure that we are well-positioned to shepherd those ideas and recommendations into reality in coordination with various decision-makers. Accordingly, we have undertaken a strategic planning process that will be completed over the next couple of months to determine how, within our resource constraints, we can best structure the agency to be an effective partner in delivering on the promise of the ADA. This process will strengthen the foundation of

NCD as we look to work with Congress and the Administration in evaluating possible changes to NCD's authorizing statute.

### **Twenty Years of Transformation**

The year the ADA was signed into law was the same year that East and West Germany reunited; a first-class stamp cost \$0.25; Seinfeld debuted on NBC; unemployment averaged 5.6%, and the World Wide Web had just arrived on the scene.

Times have changed. We celebrate the 20<sup>th</sup> anniversary of the ADA well after civil rights provisions have been implemented in regulations, tested in court, and even amended by the Americans with Disabilities Act Amendments Act of 2008. We also celebrate amidst our nation's worst economic downturn since the Great Depression. Unemployment is nearly double digits. People are losing their homes. Access to health care remains elusive. And that is before we begin talking about the individual experiences of millions of people with disabilities, for whom the economic downturn only compounds longstanding disparities in living, learning, and earning.

Unfortunately, the challenges that we face together as a nation are compounded by partisan strife. Although vitriol is no stranger to the history of American politics, something is sorely missing today—the genuine and widespread willingness to set aside ideology to pursue pragmatic solutions that make critical differences in the lives of real people. The explosion in access to 24-hour Internet-based communications exacerbates this trend, even though information technologies and other technologies have provided new levels of access for people with disabilities.

Despite the fast-paced and daunting world we inhabit, tangible marks of the ADA's success surround us—not just regarding the ADA's specific nondiscrimination provisions but symbolically as well. In a 2001 Supreme Court decision's concurring opinion, Justice Anthony Kennedy wrote:

One of the undoubted achievements of statutes designed to assist those with impairments is that citizens have an incentive, flowing from a legal duty, to develop a better understanding, a more decent perspective, for accepting persons with impairments or disabilities into the larger society. The law works this way because the law can be a teacher. So I do not doubt that the Americans with Disabilities Act of 1990 will be a milestone on the path to a more decent, tolerant, progressive society.<sup>1</sup>

The ADA is the disability community's standard bearer for the disability policy goals of equality of opportunity, full participation, independent living, and economic self-sufficiency. Some of the ADA's impact has been increasingly felt with the march of time as requirements for new and renovated construction create more livable communities, with physical and telecommunications infrastructures becoming more accessible and usable by more people with disabilities. With the ADA as a teacher, public transportation, entertainment venues, workplaces, businesses, streets and sidewalks

have all undergone physical transformations that recognize people with disabilities as whole citizens deserving of inclusion.

In other cases we see the symbolic victory of the ADA as people with disabilities assume prominent positions of leadership in government, business, and our communities and more children grow up embracing disability as a natural part of the human experience. With the ADA as a teacher, slowly but surely, American society is coming to view disability as part of a social construction rather than a biological fate or mere functional limitation. But we also know that problems abound, and the hard work of delivering on the ADA's promise still lies in front of us.

### **Twenty Years of History Repeating, Advancing**

Disability is a natural part of the human experience, and for this reason, disability anti-discrimination laws are for everyone. Any one at any time can join the disability community, be it through birth, age, or injury. So while the societal landscape changes – largely for the better – for people with disabilities, the “new” people the law serves and protects twenty years later have much in common with the tireless leaders whom I interviewed who went before.

In a few days, NCD will convene the National Summit on Disability Policy 2010, a national gathering that will bring approximately 600 people from 46 states, Guam, Rio Di Janeiro, and the Tribal Nations to D.C. for substantive dialogue on the future of disability policy. The Summit theme is “Living, Learning, and Earning.” As we work this week to bring final Summit details to a close, I am struck by the breadth of disability experiences represented in both our Summit participant list as well as our distinguished list of panelists and speakers.

Sergeant First Class Karl Pasco is one of our morning panelists on July 27. Karl joined the Army in 1992, straight out of high school, and has served for over 17 years. While in Iraq in 2004, his vehicle ran over a 500-pound aircraft bomb converted into an IED. The blast severely injured him by shattering his right leg, breaking his upper jaw, fracturing three vertebrae, breaking ten ribs, and wounding his left arm with shrapnel. After recovering, Karl's unit redeployed to Iraq. Fourteen months into deployment, he fell victim to a roadside bomb, which tore through his upper arm and ripped apart his jaw. Karl participates in the Warrior Transition Brigade's Activities Section and facilitates outings for other Wounded Warriors. Karl has received numerous awards and medals, including two-time Purple Heart recipient, two Bronze Stars, a Meritorious Service Medal, three Army Commendation Medals, eight Army Achievement Medals, and the Combat Action Badge. Karl returned home from Iraq after both significant war injuries, likely not thinking at all about the ADA but nonetheless protected by it.

Now flash back twenty years. The signing of the ADA on July 26, 1990 was exactly a week before Iraqi troops invaded Kuwait, thus beginning what would a short time later become the Persian Gulf War. Few troops or policymakers likely thought at the time of the law's signing of the protections this great, new law afforded returning disabled

soldiers; nor could they likely imagine that on its twentieth anniversary, it would continue to protect a new round of returning war-wounded soldiers from Iraq and Afghanistan.

In 1990, baby boomers were in their 30s and 40s. Twenty years later, U.S. Census statistics suggest that hundreds of baby boomers are turning 60 every day, no doubt many of which are or will soon experience a progressive degree of mobility, hearing, or vision loss that accompanies aging. One of the enduring challenges for the disability community has been developing a greater sense of shared mission and purpose with the aging community. Both groups—seniors and people with disabilities—resist being lumped together. Seniors often don't want to be viewed as "disabled," while people with disabilities don't want to be dismissed as "old." Nevertheless, many of the challenges to fuller participation for both groups are similar. I am pleased to have Fernando Torres-Gil join me in serving on the Council. Dr. Torres-Gil was the first Assistant Secretary for the Administration on Aging. He is also a person with a disability. I am hoping his engagement and expertise can help bridge the gap so that we can improve a myriad of policies that have a dramatic impact on both people with disabilities and seniors. I am also pleased that representatives of the AARP will be participating in NCD's Summit.

Tia Holmes is another one of our Summit panelists. Tia is a 13 year old, rising eighth grader with disabilities at Martin Middle School in Raleigh, North Carolina. At school, Tia has been a member of the student council, Peer Mediators, National Junior Honor Society, Odyssey of the Mind, and has performed in two musical productions. In her community, she is Vice President of the Girl Scout Troop 1323 and volunteers with homeless families at the Caring Place. She was a participant at the National Youth Inclusion Summit here in D.C. in February, and she currently moderates the Summit's group webpage. She will also be joining the board of the Inclusion Initiative for the Pines of Carolina Girl Scout Council this fall. In her spare time, Tia enjoys hanging out with her best friends, playing Super Mario Brothers on the Wii, and listening to her iPod, just like her nondisabled peers. At 13, Tia has grown up only knowing the transformations and protections of the ADA.

However, when the ADA was signed in 1990, it had been a relatively short period of time (fifteen years) since federal law was enacted that stipulated that all children with disabilities receive a free and appropriate public education.<sup>2</sup> Before that time, scores of children lived in state institutions or other segregated facilities rather than attended school. Tia may have been such a child. As of 2007, 95 percent of 6- to 21-year old students with disabilities were in regular schools, and less than one percent were served in residential facilities, homebound or hospitals, or correctional facilities.<sup>3</sup> More to the point, just as the Individuals with Disabilities Education Act assured freer access to learning opportunities, the ADA and other disability rights laws have continued to both bolster those opportunities as well as assure freer access to equality of opportunities in living and earning.

The ADA proclaims that all people, including people with disabilities, should participate fully in all aspects of our communities and have opportunities to take risks, to succeed, and – yes – to fail. Equality of opportunity means having a chance to live independently and become financially secure, but it is not a guarantee.

On this twentieth anniversary, our collective goal, as it was when we worked to pass the law, should be to ensure that the ADA is always a robust civil rights law, there for everyone when they need it. But more than that, we should recollect the intent, the motives we had in banding together the way we did to pass this great law, and recognize that we accomplish far more as a cooperative collective of policymakers, advocates, than we can ever hope to do as a divided sum of individual directions.

We must also remember that the ADA itself is neither unassailable nor self-sustaining. We learned, beginning in the 1990s, that courts were not interpreting critical aspects of the ADA as Congress intended. Another critical dimension is enforcement of the law. The ADA Amendments Act of 2008 addressed many of the significant problems that the ADA faced in court by overturning overly restrictive judicial decisions and clarifying the ADA's definition of disability.

However, the 2008 ADA Amendments did not address the lack of awareness that exists in many communities of what rights the ADA protects and how to make use of them. ADA enforcement is largely a complaint driven process. If people in underserved communities are not aware of what rights the ADA guarantees, they will be unable to meaningfully benefit from our nation's landmark disability civil rights law. We should therefore be vigilant in ensuring that executive agencies are vigorous in enforcement and that outreach about rights under the ADA is continued and expanded, particularly with communities that have been underserved by ADA enforcement efforts in the past.

This two decade anniversary urges us to press on with renewed and united sense of purpose to deliver on the ADA's legacy, hope, and promise. And an important part of that process is remembering from where we've come. Understanding the history of the ADA is every bit as important now as ever. Arguably, the urgency is even greater today. Achieving equality of opportunity for people with disabilities depends in large measure on individual transformative experiences like the one I had through writing the history of the ADA. Pausing as we are today from our busy schedules to remember the ADA's history and highlight its 20-year impact should remind us anew that the ADA's success depended on an unprecedented level of coordination and collaboration. The legacy, the hope, and the promise of the ADA endure, yet much more work must be done to transform law into life. Together, we can be the catalyst for our nation's continued transformation.

On behalf of the Members of NCD, thank you again for the opportunity to contribute this testimony to the written record.

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<sup>1</sup> Board of Trustees of Univ. of Ala. v. Garrett (99-1240), 531 U.S. 356 (2001) (KENNEDY, A., concurring). In this 5-4 decision, the Supreme Court held that lawsuits for money damages by state employees in federal courts for a state's failure to comply with Title I of the ADA by the Eleventh Amendment.

<sup>2</sup> The Education for All Handicapped Children Act, PL 94-142, was enacted in 1975 and required all public schools that accepted federal funds to provide equal access to education for children with disabilities.

<sup>3</sup> U.S. Department of Education, National Center for Education Statistics (2010). *Digest of Education Statistics, 2009* (NCES 2010-013), Chapter 2.

Mr. NADLER. Thank you.  
I'll now recognize Ms. Cox for 5 minutes.

**TESTIMONY OF CASANDRA COX, MEMBER, POLICY COMMITTEE, COALITION OF INSTITUTIONALIZED AGED AND DISABLED**

Ms. COX. Thank you. Good afternoon, ladies and gentleman of the House Judiciary Committee and the Subcommittee on the Constitution, Civil Rights, and Civil Liberties. It is an honor to appear before you today as we celebrate the 20th anniversary of the Americans with Disabilities Act.

My name is Casandra Cox, and I am a former resident of Riverdale Manor Home for Adults, an adult home located in the Bronx. Prior to moving to Riverdale Manor, I worked 29 years for Hadasah, the Women's Zionist Organization of America. Towards the end of this period, I became ill and was unable to continue working. My mental health affected my life to the extent that I wasn't able to function.

At New York Presbyterian Cornell Medical Center, I requested an appointment with a social worker and asked for help. She called Adult Protective Services immediately, and they took me before the New York State Supreme Court, and the judge appointed a guardian. With the guardian's help, I was able to have representation in all aspects of my legal as well as financial matters.

Eventually, I had to be hospitalized, and voluntarily entered the Payne Whitney Psychiatric Clinic. I was there for a period of 3 months. While there, I was evicted from my apartment. I had no money, and when I was discharged from Payne Whitney I had no place to go. I was advised that I had two alternatives: either a shelter or an adult home. To me, a shelter was a no-brainer, and I had never heard of an adult home.

An interview at Riverdale Manor, an adult home, was arranged. I went into shock, as it was less than ideal. My Payne Whitney case manager accompanied me. She had a lot of experience and told me on my return that Riverdale Manor was one of the better homes, in that FECS was on-site and offered very good programs.

Mr. NADLER. Just for the record, FECS is the Federation Employment and Guidance Service.

Ms. COX. Yes, absolutely. I reluctantly accepted.

Living in an adult home was one of the most dehumanizing experiences I have gone through in my life. We were not treated as adults; we were treated as subhumans. There was always this undercurrent, "You are a resident and therefore not quite normal." They talked down to you. There is a stigma present at all times.

This is also true on the outside. We have to fight this stigma of the mentally ill at all times.

You live in a regimented setting on a daily basis. Rooms are shared, and there is no privacy. You have to lock everything up. Fights break out occasionally. It was very stressful to live in this institutional setting and not good for anyone's mental health. While I was a resident, my primary goal was to get back to life as I knew it before. I was not encouraged toward that end.

I did become involved with an organization called the Coalition of Institutionalized Aged and Disabled. CIAD is an advocacy orga-

nization of the mentally ill and elderly who live in adult homes and nursing homes. I attended a CIAD meeting and signed The People's Waiting List. It is a list of names of those residents who wish to move to independent housing.

I joined the CIAD Policy Committee at that time because no one was offering to help me move to independence. There were comments from the adult home staff such as, "Why would you want to leave? We take care of you. You have everything here." If I missed an annual function, I would be told, "Don't worry, you'll be here next year. You can go to the one that will happen next year." The mindset was, "You are here to stay." It took me almost 3 years to move out.

As a result of the advocacy of CIAD and the New York State Coalition for Adult Home Reform, an initiative to move 60 New York City adult home residents was opened up, and I was able to be one of those people to move on under this initiative.

These apartments were created by the New York State legislature. CIAD held housing forums in Brooklyn, Queens, and the Bronx to help residents. I was one of the lucky 60. It was a difficult process, but I was willing to do anything to be able to gain my independence. I celebrated my first year of independent living this April, and I continue to work with CIAD.

CIAD filmed my move from Riverdale Manor to my new apartment, and this video captured the joy of the move, but the true joy comes from the daily basis of being able to wake up to a new day filled with the promise of the freedom and reality of living, as it should be. I cook, clean, wash clothes, shop, budget, go to movies, and meet friends.

I have support from communal life by my housing provider. I see a psychiatrist and a therapist, take my medication on a regular basis, and of course, continue to work with CIAD. I cannot tell you how wonderful it is to have my life back. Instead of the dead-end existence of the institution, I am now able to plan my own day, prepare my own meals and know that I have a future. My work with CIAD is very important to me, as I feel I need to be able to pay forward the work that was done to help me as well as the many others in the past.

As a member of CIAD'S Policy Committee, Adult Home Resident Veterans Committee, a committee of former residents, and Food Committee, I am able to go to many of the adult homes in New York City and observe firsthand the same conditions I have described to you. Residents who want to and can move on to independent living have approached me. I will continue to do all that I can to see that they do move on.

I've witnessed the ADA and worked for many years. I was a union representative when I worked at Hadassah, and it was at that time that the ADA was enacted. It was a great help in protecting employees rights, and I watch as it helps the handicapped all over the United States in housing, transportation and employment. I followed with great interest the DAI versus Paterson trial in New York. Two other CIAD leaders and former residents testified. I considered the judge's decision in this case a landmark decision for people who suffer from mental illness. It is a perfect application of the ADA as it was meant to protect those who need it

most. It has certainly given me back my life. And for that I am honored and grateful to help you celebrate the 20th Anniversary of this great law. Thank you.

[The prepared statement of Ms. Cox follows:]

PREPARED STATEMENT OF CASANDRA COX

House Judiciary Committee  
Subcommittee on the Constitution, Civil Rights, and Civil Liberties

Hearing on  
Americans with Disabilities Act at 20 –  
Celebrating Our Progress, Affirming Our Commitment  
July 22, 2010

Testimony of  
Casandra Cox  
Member, Policy Committee,  
Coalition of Institutionalized Aged and Disabled, Inc.

Good afternoon ladies and gentleman of the House Judiciary Committee and the Subcommittee on the Constitution, Civil Rights, and Civil Liberties. It is an honor to appear before you today as we celebrate the 20th Anniversary of the Americans With Disabilities Act. My name is Casandra Cox and I am a former resident of Riverdale Manor Home for Adults, an adult home located in the Bronx N.Y.

Prior to moving to Riverdale Manor I worked twenty-nine years for Hadassah, The Women's Zionist Organization of America. Towards the end of this period I became ill and was unable to continue working. My mental health affected my life to the extent that I was unable to function.

At N.Y. Hospital Cornell Medical Center I requested an appointment with a social worker and asked for help. She called Adult Protective Services immediately and they took me before the N.Y. State Supreme Court. The judge appointed a guardian. With the guardian's help I was able to have representation in all aspects of my legal as well as financial matters.

Eventually I had to be hospitalized and voluntarily entered the Payne Whitney Psychiatric Clinic. I was there for a period of three months. While there I was evicted from my apartment. I had no money and when I was discharged from Payne Whitney, I had no place to go. I was advised that I had two alternatives -- either a shelter or an adult home. To me a shelter was a no-brainer and I had never heard of an adult home.

An interview at Riverdale Manor was arranged. I went into shock, as it was less than ideal. My Payne Whitney case manager accompanied me. She had a lot of experience and told me on my return that Riverdale Manor was one of the better homes in that F.E.G. S. was on site and offered very good programs. I reluctantly accepted.

Living in an adult home was one of the most dehumanizing experiences I have gone through in my life. We were not treated as adults; we were treated as sub humans. There was always this undercurrent -- you are a resident and therefore not quite normal. They talk down to you. There is a stigma present. This is also true on the outside. We have to fight the stigma of the mentally ill all the time.

You live in a regimented setting on a daily basis. Rooms are shared and there is no privacy. You have to lock up everything. Fights break out occasionally. It was very stressful to live in this institutional setting and not good for my mental health.

While I was a resident my primary goal was to get back to life as I knew it before. I was not encouraged towards that end. I did become involved with an organization called The Coalition of Institutionalized Aged and Disabled (CIAD). CIAD is an advocacy organization of the mentally ill and elderly who live in adult homes and nursing homes. I attended a CIAD meeting and signed The Peoples Waiting List. It is a list of names of those residents who wish to move to independent housing.

I joined the CIAD Policy Committee at that time because no one was offering to help me move to independence. There were comments from the adult home staff such as -- "why would you want to leave? We take care of you; you have everything here". If I missed an annual function, I

would be told, "don't worry, you can go next year." The mindset was, you are here to stay. It took me almost three years to get out.

As a result of the advocacy of CIAD and the New York State Coalition for Adult Home Reform, an initiative to move 60 New York City adult home residents to their own apartments was created by the New York State Legislature. CIAD held housing forums in Brooklyn, Queens and the Bronx to help residents. I was one of the lucky 60. It was a difficult process but I was willing to do anything to be able to gain my independence.

I celebrated my first year of independent living this April and I continue to work with CIAD. CIAD filmed my move from Riverdale Manor to my new apartment and this video captured the joy of the move. But the true joy comes on a daily basis when I wake up to a new day filled with the promise of the freedom and reality of living life as it should be. I cook, clean, wash clothes, shop, budget, go to the movies and meet friends. I have support from Comunilife, my housing provider. I see a psychiatrist and a therapist, take my medication on a regular basis and of course continue to work with CIAD. I cannot tell you how wonderful it is to have my life back. Instead of the dead-end existence of the institution, I am now able to plan my own day, prepare my own meals and know that I have a future.

My work with CIAD is very important to me as I feel I need to be able to pay forward the work that was done to help me as well as the many others in the past. As a member of CIAD's Policy Committee, Adult Home Resident Veterans Committee (a committee of former residents) and Food Committee I am able to go to many of the adult homes in New York City and observe first hand the same conditions I have described to you. Residents who want to and can move on to independent living have approached me. I will continue to do all that I can to see that they do.

I've witnessed the ADA at work for many years. I was a union representative when I worked at Hadassah and it was at that time that the ADA was enacted. It was a great help in protecting employee's rights and I watched as it helped the handicapped all over the United States in housing, transportation and employment. I followed with great interest the DAI v. Paterson trial in New York. Two other CIAD leaders and former residents testified. I consider the judge's

decision in this case a landmark decision for people who suffer from mental illness. It is the perfect application of the ADA as it was meant to protect those who need it most. It has certainly given me back my life. And for that, I am honored and grateful to help you celebrate the 20<sup>th</sup> anniversary of this great law. Thank you.

Mr. NADLER. Thank you. I now recognize Mr. Villalobos.

**TESTIMONY OF ADRIAN VILLALOBOS, INTERN,  
NATIONAL DISABILITY RIGHTS NETWORK**

Mr. VILLALOBOS. Good afternoon and thank you Chairman Nadler and Members of the Committee for inviting me here to share

my story today. My name is Adrian Villalobos, and I am from El Paso, Texas. I'm currently an intern at the National Disability Rights Network through a fellowship from the Southern Education Foundation.

July is a very significant month for me. I was born in July and so was the Americans With Disabilities Act. I also had a life-changing accident in July. The ADA was 3 years old when my life changed and I was essentially reborn. Growing up with the ADA, I consider it my metaphorical big brother. When I was 8, I was hit by a car. I was in the hospital for 2 months and I missed my entire summer vacation. The following intensive outpatient rehabilitation cut into the school year and I missed 6 weeks of classes. It was my first taste of social isolation.

When I finally returned to school in the third grade I was in a wheelchair at an elementary school that was not accessible. The right of people with disabilities to be fully included in society was a new concept. And my parents were unaware of the services I was now entitled to. One by one, the third grade teachers refused to have me in their classroom. The intense feeling of rejection my parents experienced on my behalf fueled them to push forward. Finally, a teacher agreed to have me in her class. She and my twin had to drag my chair through the pebbled walkway all the way around the building to get to the portables, the only accessible classrooms in the school.

I was still unable to get into the main building and none of the restrooms were accessible. To get to the cafeteria and auditorium, which were detached from the main building, I had to enter through a loading dock. I remember my return to school very fondly because of the mutual excitement my peers and I had to see each other once again. They were happy to see me, their friend Adrian, not a kid that came back in a wheelchair.

The following school year, my class, now fourth grade was again assigned to the portables. My parents are frustrated that my school was inaccessible and continued to push the principal and school administration, only this time a year after the accident, my family was more educated about my rights and pointed to the ADA. The school administration acted, ramps to the school building and the cafeteria were built, a bathroom was made accessible and I was allowed to use the elevator previously restricted to the custodial staff giving me access to the nurses' station. In elementary school, I got a taste of basic accommodations.

The administration and my middle school had a completely different tone, they did not have accessible facilities but made major changes to their school to make my experience a positive one. As I was growing, the ADA was growing and the attitude of inclusion was evolving in a positive way. My principal wanted me to have the option to attend any school event or activity I wanted to. He insisted on a modified cello so could I learn the instrument and play in the school orchestra. A lift was built so I could get on stage and participate in the drama club. And a ramp was built across the highway to the football field. Middle school taught me inclusion.

By high school, I had good friends, knew how to navigate El Paso comfortably and felt self-empowered. I attended high school in a new building that was completely accessible. It was 1999, and the

ADA was in full swing. I really understand that perceived limitations are not actual limitations. And despite my disability, I was responsible for reaching my potential. With that self-confidence and motivation, I enrolled in a liberal arts college in Ohio. Excited to start something challenging and new, I quickly learned that accessible is not equal. The college disability office—with only one staff member—granted an accessible room with an accessible bathroom and shower. The problem with my room is that it was in the lobby of my dorm. Everyone else lived on the other side of locked hallways in the typical freshman hall setting. I was a guy who lived in the lobby. The gratitude I felt for having an accessible shower quickly turned to a feeling of isolation. As I evolved and my needs changed, the accommodations were no longer adequate. I needed inclusion, the ADA recognized that too. I didn't survive that college in Ohio, instead I transferred to the University of Texas at El Paso back to my friends and family and my network.

But even at the University of Texas at El Paso where I was accommodated and included, there were obstacles to overcome. On my graduation day, for example, I was excluded from the commencement procession because in the words of University staff, I was a fire hazard. As I've evolved as an individual with disability, so has the ADA. The concept of disability rights is no longer new or foreign. I attribute that to the ADA creating a general awareness of accessibility and inclusion, more importantly, the people in my life had become aware of disability rights.

As the ADA evolved, it is important for policymakers to be proactive about inclusion of all people with disabilities. I am lucky to have a family that has helped me when I needed it, but I reflect on others I met along the way. In El Paso many families don't speak English. I wonder how their children with disabilities fare. Independent advocates are needed to enforce the ADA. My experience with disability rights has motivated me to pursue a career in disability rights policy.

I want to go beyond achieving independence and access for myself. I want to be an advocate for others as well. I'm now pursuing a joint degree in public and business administration. And my first goal is to work with my University to bring to life the accessibility issues and to participate fully in my commencement ceremonies when I complete my graduate studies. Beyond that, I feel limitless. Thank you again for granting me the opportunity to speak before all of you today.

[The prepared statement of Mr. Villalobos follows:]

PREPARED STATEMENT OF ADRIAN VILLALOBOS

Testimony of Adrian Villalobos  
Intern, National Disability Rights Network  
House Judiciary Committee Hearing  
Americans with Disabilities Act at 20:  
Celebrating our Progress, Affirming our Commitment  
July 22, 2010

Good afternoon. Thank you, Chairman Nadler, Ranking Member Sensenbrenner, and members of the Committee for inviting me here to share my story today.

My name is Adrian Villalobos, and I'm from El Paso, Texas. I am currently an intern at the National Disability Rights Network, through a fellowship from the Southern Education Foundation. I am here in Washington, D.C. to focus on special education policy and accommodations for schoolchildren with disabilities, which is a very pertinent issue to my life.

July is a very significant month for me. I was born in July, and so was the Americans with Disabilities Act. I also had a life-changing accident in July. The ADA was three years old when my life changed and I was essentially re-born. Growing up with the ADA, I consider it my metaphorical big brother. On July 9<sup>th</sup>, 1993, the day after our eighth birthday, my twin and I were playing baseball on the sidewalk in my hometown. I threw him a hardball, and he missed, sending the ball into traffic. Wanting to show off, I darted after the ball into a busy four-lane road. I made it across three lanes safely before being struck and thrown twenty-five feet.

I was in the hospital for two months, and missed my entire summer vacation. The following intensive outpatient rehabilitation cut into the school year and I missed six weeks of classes. It was my first taste of social isolation. When I finally returned to school and the third grade, I was in a wheelchair at an elementary school that was not accessible. The right of people with disabilities to be fully included in society was a new concept, and my parents were unaware of the services I was now entitled to. They met with the school to discuss my return, and one by one the third grade teachers refused to have me in their classrooms. The intense feeling of rejection my parents experienced on my behalf fueled them to push forward.

Finally a teacher agreed to have me in her classroom. But I couldn't physically get into the school building. The only existing ramps were to some portable classrooms that had been set up at the back of the school to respond to growing school enrolment. With the insistence of my parents, and the ADA gaining momentum, the school moved all the third grade classes into the portables so I could attend school and be with my peers.

My teacher and my twin had to drag my chair through the pebbled walkway all the way around the building to get to the portables and back every day. I was still unable to get into the main school building and none of the restrooms were accessible. To get to the cafeteria and auditorium, which were detached from the main building, I had to enter through a loading dock. I remember my return to school very fondly because of the mutual excitement my peers and I

had to see each other once again. They were happy to see me, their friend Adrian, not the kid that came back in a wheelchair.

The following school year my class, now fourth grade, was again assigned to the portables. And I still had no access to most of the school building. My parents were frustrated that my school was still inaccessible, and continued to push the principal and school administration. Only this time, a year after the accident, my family was more educated about my rights and pointed to the ADA. The school administration acted.

Ramps to the school building and the cafeteria were built. A bathroom was made accessible. And I was allowed to use the elevator, previously restricted to the custodial staff. This finally gave me access to the nurse's station, located on the second floor. My parents struggled with the school's resistance to creating the most basic accommodations for me. But once they were in place, I felt like I could do what all the other kids could do, and it made me happy. In elementary school, I got a taste of basic accommodations.

The administration at my middle school had a completely different tone. They did not have accessible facilities either, but made major changes to their school to make my experience a positive one. As I was growing, the ADA was growing, and the attitude of inclusion was evolving in a positive way. Physical accommodations were made, not only to the school building, but also to other school facilities. For example, the football field was located on the other side of a busy street- the same busy street where I'd had my accident. Accommodations were made so I wouldn't have to cross that street to cheer on my school's team.

My principal wanted me to have the option to attend any school event or activity I wanted to. He insisted on a modified cello so I could learn the instrument and play in the school orchestra. A lift was built so I could get onto the stage and participate in the drama club. My principal also created a computer club- I was interested in computers. Middle school taught me inclusion.

By high school I had good friends, knew how to navigate El Paso comfortably, and felt self-empowered. I attended high school in a brand new building that was completely accessible. It was 1999, and the ADA was in full swing. Through the National Spinal Cord Association I had the opportunity to see Christopher Reeves speak, and his message about human potential resonated with me. I really understood that perceived limitations are not actual limitations, and that despite my disability, I was responsible for reaching my potential.

With that self-confidence and motivation, I enrolled in a liberal arts college in Ohio. Excited to start something challenging and new, I quickly learned that accessible is not equal. Upon reflection, I could have arrived at this same conclusion in elementary school if I'd been educated about my rights at that young age. The college disability office, with only one staff member, granted me an accessible room with an accessible bathroom and shower. I got a great room and was impressed with the facility when I arrived. The problem with my room was that it was in the lobby of my dorm. Everyone else lived on the other side of locked hallways, in the typical freshman hall setting. I was the guy who lived in the lobby. Socializing is a major pillar of college, and most people meet their friends in their freshman dorms. But I was on the wrong

side of those locked doors and freshman halls. The gratitude I'd felt for having an accessible shower quickly turned to a feeling of isolation.

As I evolved and my needs changed, accommodation was no longer adequate. I needed inclusion. The ADA recognized that, too. I didn't survive that college in Ohio. Instead, I transferred to University of Texas, El Paso, back to my friends and family and my network. I moved back into my home, the most accommodating place on earth. Under those circumstances, I did well in college. But even at the University of Texas, El Paso, where I was accommodated and included, there were obstacles to overcome. On my graduation day, for example, I was excluded from the commencement procession because, in the words of university staff, I was a fire hazard.

As I have evolved as an individual with a disability, so has the ADA. The concept of disability rights is no longer new or foreign. Many people and institutions, such as my middle school, have moved beyond the letter of the law and truly embraced its intent. For others, there are still miles to go before they reach real inclusion for individuals with disabilities. I have experienced both. I know how great inclusion is. More importantly, the people in my life have become aware of disability rights.

When I got DC this summer, a friend who lives here was excited to take me sightseeing. He wondered aloud if certain sights and attractions were wheelchair accessible. What gave me pause wasn't that he was thoughtful, but that he was educated about accessibility and knew what to look for. I attribute that to the ADA creating a general awareness of accessibility issues. The current situation for individuals with disabilities is good, but like anything, it could always be better. As the ADA evolves, it's important for policy makers to be proactive about inclusion of all people with disabilities.

I am lucky to have a family that has helped me when I needed it. But I reflect on others I've met along the way. In El Paso, many families don't speak English. I wonder how their children with disabilities fare. Independent advocates are needed to enforce the ADA. My experience with disability rights has motivated me to pursue a career in disability rights policy. I want to go beyond achieving independence and access for myself- I want to be an advocate for others as well. I am now pursuing a joint graduate degree in Public and Business Administration. My first goal is to work with my university to bring to light accessibility issues, and to participate fully in my commencement ceremonies when I complete my graduate studies. Beyond that, I feel limitless.

Thank you again for granting me the opportunity to speak before you today.

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Mr. SCOTT. [Presiding.] Thank you very much. I want to thank all the witnesses for their testimony. I think you articulated extremely well why the ADA is needed, and the difference between what happened before and what's happened since. So thank you very much for your testimony.

I now recognize myself for questions. First to Colonel Gadson, if someone is injured in the service, what job opportunities are there?

And what usually happens in terms of people that are disabled during the war?

Colonel GADSON. Well, I'll speak for those that are severely injured and really the process for those that are less injured are essentially easier. The first thing is about rehabbing. The military's—and the Army is committed to making sure that the soldier heals and they get to a point where their medical conditions are taken care of. At that point, the medical community will make a determination whether or not the soldier is able to continue service or not, able-bodied or not able-bodied.

In my case, I was determined not to be able-bodied because of the loss of my limbs. At that point, I had an opportunity to apply to continue on active duty and that's what I pursued.

Mr. SCOTT. Did you have a absolute right to continue?

Colonel GADSON. It is a right to apply, I would not say it is a absolute right to continue, no, sir.

Mr. SCOTT. Okay.

Colonel GADSON. It is my opinion, and my interpretation that you still have to have an ability to contribute and there are lots of ways to contribute. And I think the military and the Army is very amenable to allowing you to find a way to allow you to continue to contribute.

Mr. SCOTT. Is there an assessment of what you can do and are you offered various job opportunities?

Colonel GADSON. I would say yes. Again, you are—you may not be able to continue in the same military occupational specialty that you are, but there are quite a few others and other options so yes, there is an assessment made on whether you can continue and they offer you opportunities into other skills.

Mr. SCOTT. What about housing?

Colonel GADSON. I—as I said, I live in an ADA compliant home. ADA compliant homes are not uncommon on all military installations so—as well as barracks.

Mr. SCOTT. Are there any other services that you need to continue to be in the military?

Colonel GADSON. No, sir.

Mr. SCOTT. Is accessibility available for spouses?

Colonel GADSON. Yes, sir. I can't speak to the complete history of accessibility to spouses and children, but in general, I've been aware that accessibility for spouses and children has always been—in my time in the service—has always been accommodated.

Mr. SCOTT. Are there more opportunities that could be a made available if we worked at it harder?

Colonel GADSON. Well, I think we're doing a pretty good job right now. I'm just getting on board, but I think that there are tremendous opportunities. There is a paraplegic at Ft. Campbell that's been allowed to stay, so I think there's—I think as you look across the board, you will find that if someone is looking to continue to serve and they show some abilities that the military is more than accommodating.

Mr. SCOTT. Okay.

I would like to ask all of the witnesses as legislators what the legislative priorities should be, if there are any particular priorities in terms of funding or legislative changes specifically that we

should be looking at—if anyone has a specific recommendation for legislation. Mr. Young.

Mr. YOUNG. If I might, I would like to speak to one of the issues that came up earlier in that regard what Ms. Cox discussed for home and community-based services. One of the challenges we have on many disability issues is the way things are costed out, whether it is by OMB or Congressional Budget Office, and it is sometimes difficult to calculate the relative benefits versus the costs. I think the reality on home and community-based services is we don't know as well as we ought precisely how those costs are going to fare with what you described as the "woodworking" effect.

There have been some analyses where a number of States, including Maine, when shifting toward more emphasis on long-term services and supports have actually seen spending decline. There are a number of States who have seen increases in costs, but relative to overall rate of growth has been a lower rate of growth than other States. And so I think one of the things we might do is actually get a better handle on that, but that is huge priority for people with disabilities. It goes squarely to the dignity

of risk that I mentioned earlier. We talk about full participation, economic self-sufficiency, independent living. You can't do that if you're out of society in an institution.

So I think that's a basic issue that we need to find a way to remedy. I think one of the challenges also there, we heard this a little bit earlier from Assistant Attorney General Perez, there are coordination issues among different agencies and different departments. And one of the challenges that I see, and opportunities for the National Council on Disability, is to try to work with being sort of a hub with a 360-degree perspective to try to figure out how we can have agencies and departments work collaboratively toward consistent implementation.

Mr. SCOTT. Any other specific recommendations, Ms. Sensenbrenner?

Mrs. SENSENBRENNER. Yes, again, I don't have specifics, but I would again agree with Governor Thornburgh, employment is number 1, you heard it mentioned repeatedly. But that's where things are not—haven't really increased much at all. Governor Thornburgh mentioned employment.

Again, I agree with you, Jonathan, the independent living situation, how we cost that whole thing out and come up with it. And also again, I have no answers, I'm just telling you what I would love to see happen, and that is Supplemental Security Income limitations and how that impacts severely on people.

Mr. YOUNG. If I might add also to the comment on employment, I think certainly the National Council on Disability, we've embraced living, learning and earning as 3 core themes. When you talk about earning, it is not simply wage labor, it is asset development, the ability to accumulate assets, a variety of income. It is an opportunity to coordinate our income support services with our health care policies and our employment goals.

One thing I want to emphasize, though, there certainly is a critical role for enforcement. Right now it is possible. Yesterday I was at an event where a Tony Coehlo award was given to the National Security Agency. This year they are going to exceed hiring 20 peo-

ple with disabilities. That is an effort they began with a group called Thunder Consulting bringing qualified people with disabilities. I submit to you if the National Security Agency with its highest of high requirements for security clearance and protecting our country can make dedicated efforts to hire people with disabilities, not because it is a charity, but because they are finding that they are phenomenal engineers, budget people, managers within the National Security Agency. So I think part of the dedication to employment is more transformative commitments one on one and individualized, individual companies, individual agencies to recognize what's possible and not look at what's an okay stick call.

Mr. SCOTT. Thank you. Gentelady from Texas, Sheila Jackson Lee.

Ms. JACKSON LEE. Thank you very much, Mr. Chairman. I think all of you should be congratulated, this has been enormously instructive on what are our steps going forward. And really some of the most descriptive and disturbing stories about the treatment of the disabled in a variety of ways. And I think it is important to remind ourselves every day a quote that that someone else said on a civil rights question, of which the ADA is: Injustice anywhere is injustice everywhere—Dr. King. So as I ask questions, I want and hope you will continue to build a story, because that's how legislation is passed.

Mrs. Sensenbrenner, let me say that I do agree on the Social Security Income threshold. Because I think what you're saying is that so people can become independent. And many people don't know that if you were to lose the SSI or Social Security, you also lose access to services. So it is not just income, but people want to be independent, and I think that is going to be particularly strong with respect to Lieutenant Colonel Gregory Gadson's constituents, so many of our soldiers are coming back.

Let me pose this question to Mrs. Sensenbrenner just to take us down memory lane for a second, you mentioned your sister Tara. Could you just give us a sense of what it would have been like for Tara if we had had the ADA in place and whether or not you think the amendments of 2008 were effective where we I think sort of broaden the definition or included the definition or clarify the definition of disabilities so others would not be left out.

Mrs. SENSENBRENNER. Okay, I certainly hope it doesn't sound like I'm evading your question, but this kind of jumps over to memory lane again when I was listening to Mr. Young and when I talked to Ted Kennedy, he was with our organization as well. And the process of self-identify and how some of us, the whole process of some of us have had opportunities that the average person wouldn't have so we never self identified, we never understood or never had to labor as other people did in some cases.

My sister it was somewhat—I was injured when my sister was—about the time my sister was born. So we had a symbiotic relationship. I couldn't move out of bed and she was a little girl that needed childhood education as we know now. Early education, when you have an intellectual disability, is so important. So frankly she would physically help me, and I would work with her all day on her intellectually. So she was a little spoiled. She had opportunities that in other words, other people of her type didn't. I mean, who

has Down's syndrome that can drive a car at 16? She took college classes, she has Down's syndrome. So that early stimulation helped, because again we had a special situation because she had a disabled sister there with her.

But many of her friends are not like that. As a matter of fact, in some ways, she's a unique woman because she is able to function so well, you know. None of her boyfriends are as hip or as cool as she is. And she can do so many things. Her vocabulary blows my brain away at times.

Ms. JACKSON LEE. Well, I think you've answered it because what you've said is she had her own ADA and her own ADA proved that that kind of assistance, intervention can change lives. You've answered and I appreciate it very much. So.

Lieutenant Colonel Gadson, could you—you're doing very important work, thank you for your service. I think it is important for the record to reflect what you see in the numbers of wounded warriors, you dealing with the severely wounded, but I know you interact with returning soldiers all the time. I think America needs to hear that although they are courageous and overcoming a lot of injuries, are we going to be dealing with these soldiers for a long time? Is that your understanding?

Colonel GADSON. Yes, ma'am, and the—it has been documented in history that the scars of war are long and deep. I think our services have tremendous recognition that we've grown tremendously in terms of the recognition of those kinds of wounds, especially the ones that are invisible.

Ms. JACKSON LEE. Well, as you indicated, this is your own testimony, I think there are going to be thousands that we're dealing with for a very long time, there are certainly a number that comes to mind, 165,000 injured soldiers coming back, but many people think Veterans affairs or assistance, is it important for those soldiers as they move in civilian life to have the ADA in place?

Colonel GADSON. Yes, ma'am, I do. I am just amazed as I said. I'd never really heard or understood the ADA. I think intuitively though, I didn't understand—I didn't know what the ADA was, but I think—I also kind of grew up with it and there are things that you saw that you never really thought were ADA related.

And so I give myself a little bit more credit for not being aware of it, but also having an appreciation for it. It is important, and I recognize that I've been able to do many things from learning how to ski to learning how to golf because accessibility is important. And having that accessibility has been what has been in truly meaningful in my recovery. As they've all said, self-identify is important, and I've gotten my confidence back because of access. And I believe I've been allowed to flourish and continue to grow because our culture, because our Nation is grateful and makes accessibility a priority.

Ms. JACKSON LEE. It is a very important statement. I'm going to ask three quick questions. If Mr. Young would take one question and Ms.—I'm trying to—Ms. Cox will take the other and Mr. Villalobos take a question as well. Mr. Young, what is the next battle NCD sees that they have to engage in as relates to people with disabilities?

Mr. YOUNG. The National Council on Disabilities has a budget of \$3 million with an obligation to advise the President and the Congress on every manner of disability issues and policies for the entire Federal Government. It is a tiny agency with a giant mission. And it is different looking at 54 million Americans with disabilities and all the issues, and say here is the one thing we are going to do. I'm not trying to evade your answer, but I'm going to talk about—

Ms. JACKSON LEE. You've set up your problem, you said you've got \$3 million and you have a mountain of a task, you've already given me your next battle, but go ahead.

Mr. YOUNG. One of the things that's not terribly exciting but critical is coordination. And there are any number of ways that we can talk about it, one of them regards our income support policies. So if we are saying we want people to go to work but going to work means losing support, and losing SSI means losing food stamps or access to housing vouchers, our system isn't working in a coordinated fashion. I understand the departments are vigorously pursuing departmental missions, and that's important.

Somehow we need to find a better way to work in a coordinated fashion. Again, a sweeping challenge, we just heard front page reports about coordination challenges around national security issues since 9/11, so it is not unique, FEMA deals with it. Right now what I'm trying to do more than anything else is build an agency that is equipped and capable to answer your charge and to try to deliver on coordinating a lot of things that are good and in place but not working as they ought to.

Ms. JACKSON LEE. I think you've given me the answer, and I thank you for that. Maybe we can work on the SSI issue.

Ms. Cox, please understand the question is a positive one, you hear individuals saying it is dangerous to have individuals with disabilities living on their own, mainstreaming. What do you say to that?

Ms. COX. I say that's not true, definitely not true. When they set up the 60-bed initiative, we had eight of the people from my Riverdale Manor adult home, become part of that initiative. We are all living useful lives, and become part of the community. We live on a daily basis, as I describe my life; we take our medication on a regular basis; we're not a danger to anybody. All 60 of those people are living useful lives and have become part of the community.

In many instances some of the people who are part of the CIAD policy committee, one of the guys who is part of the policy committee worked on the Census, this past Census when he was one of the Census takers. We do—we do everything everybody else does because we're normal, we are normal. We have a health issue, a mental health issue, that's what's wrong with us. And there's no reason for anybody to be afraid of us at all.

Ms. JACKSON LEE. More harm to yourselves. I think you made an excellent—this is my last question to Mr. Villalobos. Let me just say that the University of Texas, coming from Texas at El Paso owes you a graduation. And I'd like to be in a court of law, put them on a witness stand, and say could you explain to me what fire hazard means for a young man graduating in his graduating class and allowing his family to see him proceed with the rest of the

graduating class. That would be too long for you to answer, but what I do want to have you answer is this whole idea of growing up as a child that is disabled, you clarify that it can be done, the elementary school was behind the times, the children were welcoming and accepting, your high school students were welcoming and accepting, obviously college. Give us what we should do to continue to grow that kind of acceptance as more and more disabled persons, just because of the nature of life come into the education system.

Mr. VILLALOBOS. Absolutely. As I said, I'm a fellow with the Southern Education Foundation, and they have these intern opportunities granted to interns since the celebration of *Brown v. Board of Education* since the 2004, 50th anniversary. And this is so applicable for students with disabilities because just like it says in the Brown decision, how can you ever anticipate to have a good citizen participating in the community if you deny them an education?

This is precisely what's happening with some students with disabilities. And that's the first time that a child is introduced to the community and they cultivate that ability to identify with friends and peers and things of that nature, and they recognize what they can do and what they can't.

Ultimately, you need to be able to create that bridge. So it is important within the education setting itself, because you are creating that ability for them to build upon themselves. Give them the opportunity to not only recognize that they not only belong within the school setting, but they have the right to live in the world. And that's the origin of how we come to know each other as citizens of the United States. So it is on that level. And that's how I saw it as well growing up with the ADA. If I didn't have the ADA on my side, I wouldn't have been able to participate in my educational setting. I probably could have been denied an education that has gotten me here right now.

Ms. JACKSON LEE. And other children accepted you?

Mr. VILLALOBOS. Oh absolutely. Like, I think because I'm—prior to my accident, they loved me for who I was then, they love me even more now. I just added a unique dynamic to my personality, and I hold onto my disability as part of my identity, so disability power definitely.

Ms. JACKSON LEE. This has been powerful testimony, Mr. Chairman. Thank you for your indulgence and I see a lot of pathways for us to go forward. Most of all for me, I would like to work on the SSI issue, I've heard it from Veterans who are likewise on disability in another form. And I hear it now and I think I want to conclude by saying aren't we the better for now people accepting and understanding and knowing that we all have something to contribute in this world. I yield back, Mr. Chairman.

Mr. SCOTT. Thank you, and again, I want to thank all of our witnesses for their testimony. This has been a tremendous hearing about the need and the success of the Americans With Disabilities Act. Without objection, all Members have 5 legislative days to submit to the Chair additional written questions for the witnesses, which we will forward and ask the witnesses to respond to as promptly as they can, so the answers may be made part of the record. Without objection all Members will have 5 legislative days

to submit any additional materials for inclusion in the record. And with that, and without objection, the hearing is adjourned.  
[Whereupon, at 5:40 p.m., the Subcommittee was adjourned.]



APPENDIX

MATERIAL SUBMITTED FOR THE HEARING RECORD

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House of Representatives  
Washington, DC 20515

COMMITTEES:  
JUDICIARY

SUBCOMMITTEES:  
COURTS AND CONSTITUTION POLICY  
IMMIGRATION, CITIZENSHIP, REFUGEES, BORDER  
SECURITY, AND INTERNATIONAL LAW  
CRIME, TERRORISM AND HOMELAND SECURITY  
CONSTITUTION, CIVIL RIGHTS, AND CIVIL LIBERTIES

HOMELAND SECURITY

SUBCOMMITTEES:

CHIEF  
TRANSPORTATION SECURITY AND INFRASTRUCTURE  
PROTECTION  
BUSINESS, MARITIME, AND GLOBAL COMPETITIVENESS

FOREIGN AFFAIRS

SUBCOMMITTEES:  
AFRICA AND GLOBAL HEALTH  
MIDDLE EAST AND SOUTH ASIA  
EUROPEAN, NORTHATLANTIC, AND TRADE

SENATOR  
DEMOCRATIC CAUCUS

CONGRESSWOMAN SHEILA JACKSON LEE,  
OF TEXAS

SUBCOMMITTEE ON THE CONSTITUTION, CIVIL  
RIGHTS AND CIVIL LIBERTIES

Hearing on "The Americans with Disabilities Act at 20 –  
Celebrating Our Progress, Affirming Our Commitment"

Thursday, July 22, 2010; 2:00pm

2141 Rayburn House Office Building



STATEMENT

First and foremost, I would like to extend my gratitude to  
Chairman Nadler for holding this important Subcommittee Hearing

addressing the Americans with Disabilities Act after two decades. Secondly, I would like to recognize our many esteemed witnesses – Representatives Hoyer and Langevin, Thomas Perez, former Attorney General Thornburgh, Mrs. Sensenbrenner, Lt. Col. Gadson, Mr. Villalobos, Ms. Cox, and Mr. Young. Your participation in today’s hearing is appreciated and I look forward to hearing your perspectives on this key law, its impact, and its future.

The Americans with Disabilities Act of 1990 was implemented to “provide a clear and comprehensive national mandate for the elimination of discrimination against individuals with disabilities.” It places an affirmative obligation on employers, government entities, and places of public accommodation to ensure that people with disabilities have an equal chance to participate in mainstream American life, and that reasonable accommodations be made to remove barriers that might prevent full participation in society by people with disabilities.

In the twenty years since ADA’s enactment, it has had an

undeniable, positive impact on the lives of disabled Americans. People in wheelchairs now have access to places they could never go twenty years ago, or only with great difficulty – movie theaters, restaurants, clothing stores, and government buildings. Now, people who use service animals to participate in regular daily life are allowed to bring them where they previously couldn't. The disabled are no longer excluded from places of business, mass transit, or schools. And as disabled citizens are better able to participate in American life, we all benefit.

This is a good time to assess the ADA. Today's witnesses will detail the impact the ADA has had on their lives, where and how it has been successful, and how it might be improved, incorporating the knowledge gained over the last twenty years to better achieve the objectives of this law. I look forward to hearing their testimony, and learning from it.

Thank you Mr. Chairman, and I yield back the remainder of my time.

